ARNOLD SCHWARZENEGGER, GOVERNOR

OFFICE OF ADMINISTRATIVE LAW

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PROPOSED ACTION ON REGULATIONS

GENERAL PUBLIC INTEREST

(Continued on next page)

Time-Dated Material

PROPOSITION 65

RULEMAKING PETITION DECISIONS

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

SUMMARY OF REGULATORY ACTIONS

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **August 16, 2007**, at 10:00 a.m.
in The Bonderson Building, Hearing Room 102A
901 P Street, Sacramento, California 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **August 16, 2007**, following the Public Meeting
in The Bonderson Building, Hearing Room 102A
901 P Street, Sacramento, California 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **August 16, 2007**, following the Public Hearing
in The Bonderson Building, Hearing Room 102A
901 P Street, Sacramento, California 95814.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274–5721 or the state–wide Disability Accommodation Coordinator at 1–866–326–1616 (toll free). The state–wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1–800–735–2929 (TTY) or 1–800–855–3000 (TTY–Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer–Aided Transcription System or Communication Access Realtime Translation (CART), a sign–language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders, General Industry Safety Orders, and Ship Building, Ship Repairing, and Ship Breaking Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **August 16, 2007**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 4
Section 1532.2
GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 110
Sections 5203 and 5206
SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY ORDERS
Chapter 4, Subchapter 18, Article 4
Section 8359
Carcinogen Report of Use Requirements for Chromium VI

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4,
Appendix B
Plate B–17
GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 2
Section 3214 and Figure E–1 of Section 3231
Stair Railing Design

Descriptions of the proposed changes are as follows:

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 4
Section 1532.2
GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 110
Sections 5203 and 5206
SHIP BUILDING, SHIP REPAIRING, AND SHIP BREAKING SAFETY ORDERS
Chapter 4, Subchapter 18, Article 4
Section 8359
Carcinogen Report of Use Requirements for Chromium VI

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) intends to adopt the proposed rulemaking action pursuant to Labor Code Section 9030, which mandates the Board to adopt standards that require the reporting of the use and potentially hazardous release of all regulated carcinogens.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated standards addressing Hexavalent Chromium, chromium (VI) as a regulated carcinogen on February 28, 2006, as 29 Code of Federal Regulations, Sections 1910.1026, 1915.1026, and 1926.1126. The Board adopted substantially the same standards on August 17, 2006, as new Sections 1532.2, 5206 and 8359, chromium (VI). However, this follow–up rulemaking is necessary to add the carcinogen reporting requirements since the equivalent federal standards do not require reporting.

This proposed rulemaking action would amend Section 5203(b) by adding Sections 1532.2 and 8359 to the list of Title 8 sections covered in the definition of regulated carcinogen in this subsection. The definition for regulated carcinogen in Section 5203 already includes Section 5206, since that section is part of Article 110 and all sections of this Article are defined as regulated carcinogens. Therefore, Section 5206 does not have to be specifically identified in the definition's list of covered regulated carcinogens.

The proposed rulemaking would also amend Section 5203(c)(2) by specifying the circumstances in which report of use is required for regulated carcinogens that do not require the establishment of regulated areas. Chromium (VI), as regulated by Section 5206 for general industry, has a regulated area requirement triggered by exposure above the permissible exposure limit (PEL). However, Section 1532.2 for the construction industry and Section 8359 for the ship building, ship repairing, and ship breaking industry do not require the establishment of regulated areas.

The current language of Section 5203(c)(2) requires report of use of chromium (VI) for general industry regulated by Section 5206. To be consistent with the PEL trigger for Section 5206 regulated areas, a new subsection (A) is added to Section 5203(c)(2) to require reports of chromium (VI) use only when the PEL may be exceeded. Exceeding the PEL is the trigger for establishing a regulated area and hence for reporting use in the general industry standard for chromium (VI) and for most other regulated carcinogens.

To retain the current language that requires reports of use above 0.1% for other regulated carcinogens, the existing requirement is moved verbatim from existing Section 5203(c)(2) to new Section 5203(c)(2)(B). In addition, the words "all other" are included in this subsection following the word "For," so it would be clear that this requirement applies to circumstances not covered by proposed Section 5203(c)(1) and (c)(2)(A).

This proposed rulemaking action would also amend Sections 1532.2, 5206 and 8359 by adding new subsections m, o and m, respectively. These new subsections would be titled, "Reporting requirements," and would state, "See Section 5203".

Finally, the proposed revisions would change the "NOTES" at the end of Sections 1532.2, 5206 and 8359 by adding the appropriate Labor Code sections in the occupational carcinogen control act to the list of authorities and references cited.

The effect of the proposed revisions of this proposal on the regulated public would be to require chromium (VI) users to report such use to the Division in a consistent manner for all three industries (general; construction; and ship building, repair, and breaking) and that the reporting is just as effective as the reporting required of users of other regulated carcinogens.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The cost of complying with Section 5203 has been found to be insignificant by businesses currently reporting use for other carcinogens covered by Section 5203. Therefore, the cost of complying with similar levels of reporting for chromium (VI) should also be insignificant.

Cost Impact on Private Persons or Businesses

See "Impact on Businesses."

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed amendments do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school district to incur additional costs in complying with the proposal. Furthermore, the amendments do not constitute a "new program or higher level of service of an existing program with the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed amendments do not require local agencies to carry out the governmental function of providing services to the public. Rather, these revisions require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these amendments do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed amendments do not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4,
Appendix B
Plate B–17
GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 2
Section 3214 and Figure E–1 of Section 3231
Stair Railing Design

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing Section 3214 contains standards pertaining to the design of stair rails and handrails in permanent buildings. This proposal would amend certain portions of Section 3214 of the General Industry Safety Orders (GISO).

This proposal is based on a Division of Occupational Safety and Health (Division) Form 9 Request for New, or Change in Existing, Safety Order, to correct an oversight in Section 3214(c). Section 3214(c) became effective on April 3, 1997. The purpose of Section 3214(c) was to require the tops of stair rails to be 34–38 inches in height. Section 3214(c) was intended to apply to new installations, but the existing standard lacked wording to that effect. Therefore, this proposal corrects this oversight by providing a reasonable limitation based on the April 3, 1997 effective date. In addition, this proposal clarifies other portions of Section 3214 and two related figures/diagrams.

Any references to Title 24 in the text are proposed for deletion. Prior to September 30, 2002, the Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code. Assembly Bill 3000 (Stats. 2002. c. 1124) repealed Labor Code Section 142.6 and Health and Safety Code Section 18943(b), thus exempting the Board from the building standard requirements contained in those statutes.

This proposed rulemaking action also includes non–substantive revisions such as editorial, grammatical, and re–formatting which includes replacing the term "stair rail(s)" with the term "stair railing(s)" which is defined in Section 3207 of the GISO. These non–substantive revisions are not all discussed in this informative digest but are clearly indicated in the regulatory text in underline and strikeout format. In addition to these non–substantive revisions, the following actions are proposed:

Section 3214. Stair Rails and Handrails.

Existing Section 3214 contains standards that address required location and placement of stair rails and handrails. In addition, this section establishes requirements on the design of intermediate railings, number of required handrails and stair rails based on stairway width and number of risers, use of stairways to provide access to portable work stands less than 30 inches high, exotic applications for stairways such as on cylindrical tanks or spherical structures, use of guardrails, construction and design of stair rails including required height above the nosing of treads of stairways, and the use of midrails and spacing of intermediate vertical members. Also, this section provides an exception for situations where handrails and stair rails may deviate from the required specifications for handrails and stair rails in basements and cellars.

In addition, Section 3214 describes what constitutes a compliant handrail design, addresses handrails that project from a wall and the mounting of handrails, and requires that the completed structure be capable of withstanding a 200 pound load applied in any direction at any point on the rail (strength requirement).

Subsection (b).

Existing subsection (b) requires stair railings be of construction similar to a guardrail and the vertical height comply with Section 3214(c). Subsection (b) contains an informative "Note" which states that local building standards may require 9 inch spacing of midrails.

Amendments are proposed to subsection (b) to require a midrail located halfway between the top and the steps for railings on open sides that are 30 inches or more above the surface below. In addition, it is proposed in the "Note" to replace the "9"–inch spacing of "midrails" with "4"–inch spacing of "intermediate vertical members."

The proposed amendments to subsection (b) would ensure that stair railings and handrails installed in California provide the necessary protection to prevent a person from falling through the stair railing to the level below or getting caught in between intermediate vertical members, consistent with the current California Building Code enforced by local jurisdiction building officials and the Division.

The "Note" in this subsection is informational only. Therefore, the proposed amendments to the "Note" are to be consistent with intermediate railing spacing width and terminology contained in the 2001 California Building Code, Section 509.3 enforced by the local jurisdiction building authorities.

Subsection (c).

Existing subsection (c) requires the top of stair rails, handrails and handrail extensions to be placed not less

than 34 inches or more than 38 inches above the nosing of treads and landings. This subsection also addresses requirements that stair rails and handrails be of continuous full length design with the exception of private stairways where the stair rail and handrail shall extend in the direction of the stair run not less than 12 inches beyond the top of the riser nor less than 12 inches beyond the bottom riser. This subsection also addresses ends returning and terminating in newel posts or safety terminals so as to not create a projection hazard. An "EXCEPTION" is included that excludes handrails and stair rails on stairs serving basements or cellars that are covered by a trap door, removable floor or grating when not in use.

Amendments are proposed to subsection (c) to require handrails, stair railings and handrail extensions installed on or after April 3, 1997 be at a vertical height between 34 and 38 inches above the tread nosing and landing, and for stairs installed before April 3, 1997, be at a vertical height between 30 and 38 inches.

These proposed amendments to subsection (c) would ensure that Title 8 is consistent with current building standards for new installations and would provide the employer with stairways installed prior to April 3, 1997 an option to comply with a broader stair railing and handrail extension specification. The broader handrail specification would encompass the existing extension dimensions found with older installations in California and would avoid imposing a burden upon California employers with older installations.

Figure E–1, Section 3231 of the General Industry Safety Orders.

Figure E–1 of Section 3231 provides an illustration of stairs, tread, riser, rail, noxing, stairway angle and distance between the top of the stair riser to the rail. Figure E–1 follows Section 3231 which contains standards addressing circular stairways, landings, the rise and run of stairways, headroom, enclosure construction of exit stairways, and openings into enclosures. This section also contains a reference to the stair rail and handrail requirements of Section 3214.

Amendments to Figure E–1 are proposed in order to be consistent with the proposed amendments to Section 3214. This amended figure shows a midrail installation along the stairway diagram and updates the railing to stairway surface dimension to 34 to 38 inches with a written caption indicating the dimension applies to stairways installed on or after April 3, 1997.

Appendix B, Plate B–17 of the Construction Safety Order (CSO).

Appendix B of the Construction Safety Orders contains mathematical construction data, sanitation of personal safety device information, measures, weights of metal per square foot, rules of thumb, scaffold plank information, and other reference information helpful to employers involved in construction operations. Existing Plate B–17 contains criteria for stairs, ramps, ladders or inclines and is essentially identical to existing Figure E–1. Plate B–17 consists of an illustration of stairway angles in degrees, location of rail, riser, nosing, and tread.

Amendments to Plate B–17 are proposed to be consistent with those made to Section 3214 and Figure E–1, to update the illustration to show a midrail and a revised rail–to–surface of tread distance of 34 to 38 inches.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. Title 8 standards require handrails and stair railings to comply with the 34–38 inch height requirement since the standard went into effect on April 3, 1997 without regard to whether or not the building was new construction. This proposal provides a grandfather feature which allows the handrails and stair railings installed prior to April 3, 1997 to comply with a 30–38 inch height requirement.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274–5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than August 10, 2007. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 16, 2007, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274–5743 or e–mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274–5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is http://www.dir.ca.gov/oshsb. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 423.00, in Chapter 1, Division 1, Article 6, of Title 13 in the California Code of Regulations to identify the annual adjustment of specified fees for 2008.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M on *August 13, 2007*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Sections 12814.5, 14900, 14900.1, 14901, and 14902.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 1678 has required the department to annually review and adjust a variety of department fees since January 1, 2005. The fees are to be adjusted in an amount equal to the increase in the California Consumer Price Index for the prior year as calculated by the Department of Finance. A fee would only be increased when the calculated amount equals or is greater than $0.50, rounded to the next highest whole dollar.

The department proposes to amend Section 423.00 to identify the Vehicle Code sections that authorize each fee identified in Vehicle Code section 1678, the dates the fee increases are effective and the amount of each adjusted fee. These fees would become effective January 1, 2008.

DOCUMENTS INCORPORATED BY REFERENCE

There are no documents to be incorporated by reference.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non–Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The department is required by statute to adjust specific fees by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance. Six (6) different fees are proposed to be increased by one dollar.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.

- The adoption of this regulatory action will neither create nor eliminate jobs or create businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses because the proposed regulatory action identifies specific fees that will be increased based on the increase in the California Consumer Price Index for the prior year. This regulation proposes to increase six (6) fees specified in statute by one dollar ($1).

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre–notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station C–244, Sacramento, California 94232–3820; telephone number (916) 657–5567, or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657–5690 or e–mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657–1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above–cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons and Express Terms) may be accessed at *www.dmv.ca.gov/about/lad/regactions.htm*.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861, and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code and to implement, interpret or make specific Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e), and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, pro-

poses to amend Section 632, Title 14, California Code of Regulations, relating to Channel Islands Federal MPA Boundaries.

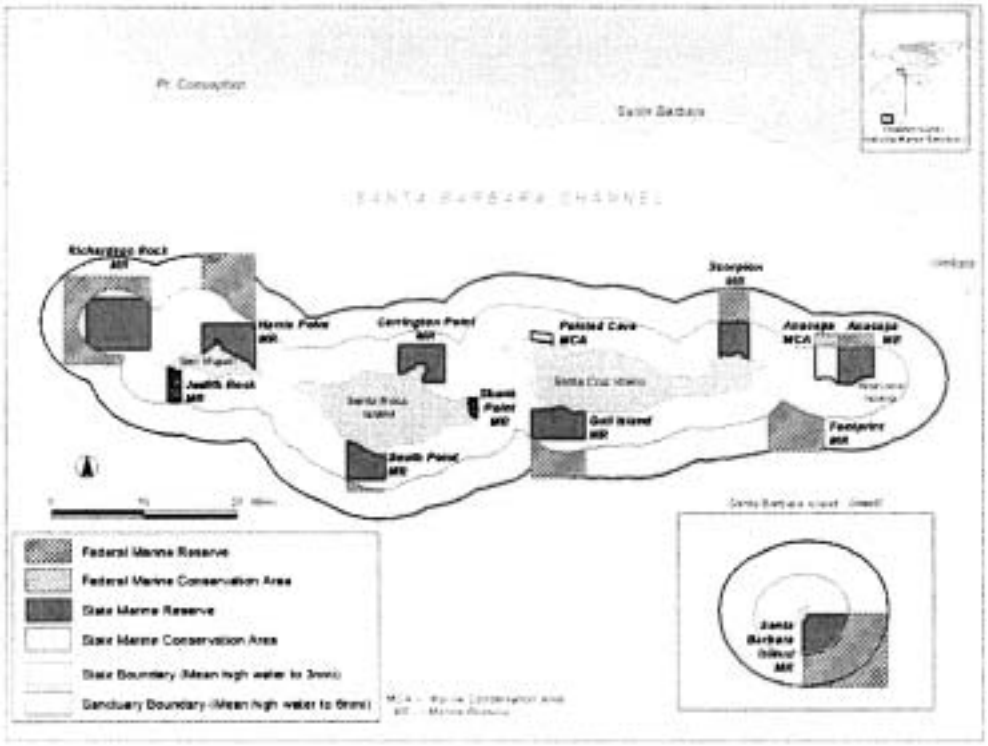
INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On October 23, 2002, the California Fish and Game Commission (Commission) adopted regulations to implement the first phase of a joint state/federal proposal for Marine Protected Areas (MPAs) in the National Oceanic and Atmospheric Association's (NOAAs) Channel Islands National Marine Sanctuary (Sanctuary). The proposal envisioned a state waters phase, to be followed by a federal phase extending the MPAs into Sanctuary waters farther than 3 nautical miles from shore. In order to facilitate enforcement the state waters phase used straight line offshore boundaries, rather than extending MPAs to the irregular 3 nautical mile state waters line. Additionally, one MPA at the "Footprint" area within the Anacapa Channel was left out of the initial state phase, as the bulk of its area was outside state waters (Figure 1).

The federal phase has now been completed, leaving gaps between the existing state MPAs and the inner edge of the federal MPAs at the state water line and missing area in the "Footprint" MPA. The proposed regulation will adjust the offshore boundaries of all Channel Islands MPAs with a federal waters component, so that the boundaries match the federal MPA boundary at the state water line. The proposed regulation will add one MPA at the "Footprint" area to complete the originally proposed area.

NOAA, in preparing its regulations, reviewed existing latitude longitude coordinates for the state MPAs, using updated data on the location of mean high tide. These updated data show that existing shoreline coordinates can be made more precise, so that the inshore boundaries of state MPAs fall on the official line of mean high tide used for nautical charting. Corrections are proposed for all inshore coordinates of the existing MPAs to make them more precise. This will also allow NOAH Charting to add the MPAs to NOAH nautical charts, making them easier to identify and find for the boating public.

Figure 1. Existing state MPAs, new federal MPAs, and the gaps to be filled by the proposed regulations.



NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Bridgeport Memorial Hall, 75 North School Streets, Bridgeport, California on Friday, July 13, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the County Administration Building, Board of Supervisors Hearing Room, 105 East Anapamu Street, 4th Floor, Santa Barbara, California on Friday, August 10, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California on Friday, October 12, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 5, 2007, at the address given below, or by fax at (916) 653–5040, or by e–mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e–mailed to the Commission office, must be received before 5:00 p.m. on October 9, 2007. All comments must be received no later than October 12, 2007, at the hearing in Concord, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **John Ugoretz, Marine Region, phone (805) 338–3905, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.fgc.ca.gov.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but also other regulations and processes. Current cooperative efforts with the Channel Islands National Marine Sanctuary provide funding for some existing costs and are expected to increase with the adoption of this regulation. Changes in

enforcement, monitoring, and management will increase costs to the Department of Fish and Game as compared to current efforts. These costs, however, will be minimal and likely supported by existing funding.

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None

(h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING THE ESTABLISHMENT OF THE SPECIFICATIONS AND PROCEDURES FOR A VISIBLE SMOKE TEST; AND APPLICATION OF THE REPAIR COST WAIVER EXPENDITURE LIMIT TO SMOKE TEST FAILURES

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at **10:00 a.m. on August 13, 2007, in the first floor Hearing Room of the Contractors State License Board located at 9821 Business Park Drive, Sacramento, CA 95827.**

Written comments, including those sent by mail, facsimile, or e–mail to the addresses listed under Contact Person in this Notice, must be **received by the Bureau at its office not later than 5:00 p.m. on August 13, 2007**, or must be received by the Bureau at the above referenced hearing. **Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will be included in the record of this proposed regulatory action, but will not be summarized or responded to.**

The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 44002, 44003, 44012, 44012.1, 44013, 44017 and 44036 of the Health and Safety Code and Section 9882 of the Business and Professions Code, and to implement, interpret or make specific Sections 39032.5, 44002, 44003, 44005, 44011, 44011.3, 44012, 44012.1, 44013, 44014.5, 44015, 44017, 44032, 44036, 44062.1 and 44081 of the Health and Safety Code, and Sections 9884.8 and 9884.9 of the Business and Professions Code; the Bureau is proposing to adopt the following changes to Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Bureau, located within the Department of Consumer Affairs (DCA), is the state agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and light trucks, by requiring that these vehicles meet specific in–use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses Smog Check stations and technicians and certifies inspection equipment.

This regulatory action implements the provisions of legislation chaptered in 2006[1] by incorporating a vis-

[1] Chapter 761, Statutes of 2006 (AB 1870, Lieber)

ible smoke test into the current Smog Check inspection procedures. This will be accomplished by adding specific requirements for performing the visible smoke test to provisions specifying other general elements and procedures of the Smog Check inspection.

The proposed action will also establish specific conditions and qualifications that must be met by the owners of vehicles that fail the visible smoke test in order to be eligible for a repair cost waiver.

The proposed action also includes several minor technical, grammatical and editorial changes that have no regulatory effect or that are conforming.

BACKGROUND:

AB 1870 added a requirement that the Bureau include a visual test for visible smoke in the Smog Check inspection procedures to determine the presence of smoke in automobile exhaust. It also made changes that affect the eligibility for a repair cost waiver when a vehicle fails the visible smoke test. Specifically, this bill:

1. Requires the Bureau, by January 1, 2008, to incorporate a visual test procedure for smoke during the Smog Check inspection.
2. Requires the Bureau to consult with ARB and interested parties, in developing and adopting regulations that implement the visual test procedure for smoke.
3. Provides that any visible smoke from the tail pipe or crankcase of a motor vehicle constitutes a failure of the Smog Check inspection and specifies that steam from condensation does not constitute a test failure for smoke.
4. Provides recourse to the owner of a vehicle that does not pass the Smog Check inspection to appeal the determination to a state–designated referee.
5. Provides that no repair cost waiver may be issued for a vehicle that has failed the visible smoke test unless the vehicle is owned by a low–income person, as defined.
6. Requires the Bureau, by January 1, 2008, to adopt regulations for vehicles that fail the visible smoke test, allowing a repair cost waiver for individuals under economic hardship who do not meet the definition of low–income person, as specified.
7. Provides that no new equipment may be required to implement the visible smoke test.
8. Provides that if the implementation of the visible smoke test requires updated EIS software or changes to the vehicle information database, that those changes be performed at the time of the ordinary, periodic upgrades of those systems.

Visible Smoke Test

Currently, it is possible for a smoking vehicle to pass the smog check inspection. The current Smog Check inspection measures exhaust emissions (gaseous emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen), but does not test for particulate matter or tail pipe smoke. According to the Inspection and Maintenance Review Committee (IMRC), "due to the chemical composition of the smoke, the Emissions Inspection System used in smog check stations cannot measure smoke that results from a vehicle burning excessive amounts of motor oil. Therefore, it is possible for a smoking vehicle to be issued a Certificate of Compliance after passing a smog check inspection and continue to pollute the air with harmful emissions, especially particulate matter." Further, the Bureau notes that while burning oil would produce extra hydrocarbons, they may not reach the threshold at which the vehicle would fail the tailpipe portion of the Smog Check inspection. Also, the vehicle's catalytic converter (emissions control device) could eliminate or reduce the hydrocarbons but still allow the smoke particles to pass through.

According to the Bay Area Air Quality Management District, "smoking vehicles emit roughly 1.6 million tons annually of fine particle pollution. These particles are taken deep into the respiratory system, and are linked to a host of respiratory and other health problems. Recent studies have shown tailpipe smoke to be particularly toxic, and composed primarily of byproducts of lubricating oil combustion."

AB 1870 implemented a recommendation identified in a joint report by the California Air Resources Board (CARS) and the Bureau (September 2005), as well as a report prepared by the IMRC. The IMRC report recommended that BAR be statutorily authorized to implement a visual smoke inspection procedure as a component of the Smog Check inspection. In addition, the report states that the smoke inspection procedure should not require additional equipment purchases by smog check stations since a test that relies exclusively on the technician's observations of the exhaust is adequate for this purpose. According to the Bureau and CARB, including a smoke inspection may "add a minute or two to the current smog check inspection."

The joint CARB/BAR report estimates that only a small fraction of the fleet (about 200,000 vehicles) emits excessive smoke. In addition, the report indicates that "the addition of a smoke test conceivably increases the amount of time required to conduct a smog check inspection. Therefore, smog check stations may initially increase the smog check inspection price by $1 — $2 each, as has occurred for previous additions to the testing procedure. As smog check technicians gain experience in the new procedure, the price invariably decreases due to market pressures."

Eligibility for the Repair Cost Waiver

AB 1870 generally eliminated repair cost waivers for smoking vehicles, but required the Department to adopt regulations allowing a one time repair cost waiver for individuals under economic hardship who do not meet the definition of low–income person. This category of consumer is defined as: "*. . .individuals under economic hardship but who do not meet the definition of low–income person, as defined in Section 44062.1. . .* [and] w*hose household means fall below the level necessary to achieve a modest standard of living without assistance from public programs.*" Currently, the Consumer Assistance Program (CAP) utilizes 225% of the FPG as the standard for participation in its low–income repair assistance option. The creation of a "near low–income" category for repair cost waivers, as mandated by AB 1870, is intended to minimize the potential impact that implementation of the visible smoke test may have on lower income level consumers that do not meet the income eligibility criteria necessary to qualify for repair assistance under the CAP.

Data from sources such as the United States Census Bureau and the California Budget Project has provided estimates for income levels required to maintain "a modest standard of living" in California for a single adult, and various sized families. In 2005, the California Budget Project published *Making Ends Meet: How Much Does It Cost To Raise A Family in California?* to establish realistic "cost–of–living" figures by county and by family size. The data was compiled from Census sources, and takes into consideration a broad range of factors such as child care costs, health care costs, transportation, taxes, rent costs adjusted for location and various others not always considered in the FPG. The report estimates monthly expenses for households ranging from single person to two parent/two children families, to meet a basic standard of living, without public or private assistance. However, the dollar figures estimated to provide a basic standard of living without public or private assistance, do not match the 225% of FPG currently utilized by CAP for RA eligibility. The disparity between the California Budget Project basic standard of living without public or private assistance, and CAP's eligibility requirements of 225% of FPG, can be best alleviated by the adoption of a 250% of FPG threshold for the AB 1870 "near low–income" repair cost waiver eligibility standard.

CURRENT REGULATION:

Existing regulations in the California Code of Regulations, Title 16, Division 33, Chapter 1, Article 5.5, are summarized as follows:

1. Section 3340.42 prescribes various inspection and test procedures that are to be performed in the course of a Smog Check inspection.
2. There is no regulation addressing any eligibility criteria for obtaining a repair cost waiver.

EFFECT OF REGULATORY ACTION:

The proposed action will make the following changes to existing regulation:

1. Amend Section 3340.42 of Article 5.5 of Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:
   a. The entire section will be reorganized. Some subsections will be relocated and renumbered. Some paragraphs and subparagraphs will become subsections and others will be consolidated in new subsections. For example:
      (1) Paragraph (1) of subsection (a) will become subsection (a) and paragraph (2) of subsection (a) will become a new subsection (b).
      (2) Paragraph (3) of subsection (a) will become a new subsection (c) and the current paragraph 4 of subsection (a) will become paragraph (3) of the new subsection (a).
      (3) The current subsection (b) will become subsection (d).
      (4) A new subsection (e) will be added, as discussed further below.
      (5) The current subsection (c) will be relocated to the end of Section 3340.42, will be renumbered subsection (g), and the redundant provisions of paragraph (5) will be deleted.
      (6) The current subsection (d) will become subsection (f).

      The reorganization of this section, including the relocating and renumbering of various subsections, is merely an editorial change intended to improve the flow, clarity and readability of Section 3340.42, and has no regulatory effect. Similarly, the deletion of paragraph (5) of the current subsection (c) is an editorial change intended to eliminate an unclear and redundant statement, which also has no regulatory effect.
   b. A new subsection (e) will be added to require the performance of a visible smoke test as part of every Smog Check inspection beginning January 1, 2008, and to establish the conditions and procedures for performing the test, as follows:
      (1) The test for visible tailpipe smoke shall be performed immediately following the tailpipe emissions phase of the smog

check inspection. The vehicle's engine shall be running at idle. The technician performing the test shall exit the vehicle, go to the tailpipe area of the vehicle, remove the emissions inspection system exhaust probe from the tailpipe, and observe the tailpipe area for at least 10 seconds. If the technician observes smoke, the vehicle fails the visible smoke test and the failure shall be entered into the emission inspection system, as specified.

(2) The test for visible smoke emanating from the crankcase shall be performed during the under hood portion of the visible fuel leak inspection specified in this section. The crankcase and PCV systems shall not be disconnected during this phase of the visible smoke test. With the vehicle's engine running at idle, the technician shall observe the crankcase and PCV systems for at least 10 seconds. If the technician observes smoke emanating from the vehicle's crankcase or PCV systems, the vehicle fails the visible smoke test and the failure shall be entered into the emission inspection system, as specified.

(3) If no smoke is observed emanating from the vehicle's tailpipe, and if no smoke is observed emanating from the PCV or crankcase systems, the vehicle passes the visible smoke test and the technician shall enter that result into the emissions inspection system, as specified. However, this entry shall be superseded by an entry for any failure that would normally be recorded in the same category.

(4) Smoke that is observed emanating from any area of a vehicle other than the vehicle's tailpipe, or crankcase or PCV systems, regardless of the cause, shall not constitute a failure of the visible smoke test.

(5) If the vehicle fails the visual smoke inspection, the technician shall: document the failure by writing or stamping on the VIR that is given to the customer and the VIR that is retained by the station, in the "Other Emission Related Components" section, "Failed for visible smoke," or "Failed visual smoke test;" and provide to the customer the bureau's *Visible Smoke Test Failure Consumer Information Sheet*, form SMOKE INFO (01/07), with the applicable items completed on the check lists. The bureau will furnish stations with a supply of information sheets.

(6) For the purposes of this subsection:

(A) "Tailpipe" means anywhere the vehicle's exhaust is designed to exit the vehicle under normal conditions.

(B) "Unobstructed view" means that there is nothing in the shop environment, which prevents the technician from observing the exhaust emitting from the vehicle's tailpipe.

c. Other minor conforming, grammatical and editorial changes that have no regulatory effect are also included.

2. Add Section 3340.43 to Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations, as follows:

The addition of this section provides that the owner of a motor vehicle that has failed the visible smoke test shall only be eligible for the repair cost waiver specified in subdivision (a) of Section 44017 of the Health and Safety Code under the following conditions:

a. The owner has a household income greater than the income eligibility limit for CAP RA, but equal to or less than two hundred fifty percent (250%) of the federal Poverty Guidelines (FPG), as published by the U.S. Department of Health and Human Services; and

b. The owner's household income has been verified in accordance with Section 3394.6; and

c. The owner is not receiving any form of public assistance from any agency; and

d. The vehicle's required emissions control equipment is not missing and has not been rendered inoperative.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Costs to Any Local Agency or School district for Which Government code Section 17561 Requires Reimbursement:

None.

Businesses Impact:

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

Visible Smoke Test

The fact that this test does not add significant time to the inspection and does not require any additional equipment suggest that these regulations will not have a significant adverse impact on inspection businesses. The Smog Check industry may incur some minor costs in training technicians to perform smoke inspections, but this would be more than offset by additional repair revenue potentially generated from repairing vehicles that fail the smoke test. In addition, a few vehicle–recycling businesses may actually see increased revenue due to additional motorists qualifying for the CAP Vehicle Retirement option.

Eligibility for the Repair Cost Waiver

The business impact of extending repair cost waiver eligibility to "near low–income" consumers cannot be determined until the number of vehicles failing Smog Check *strictly* for visible smoke can be determined. It is difficult to estimate the number of consumers in the "near low–income" group, or how many would opt for the repair cost waiver, as opposed to the Vehicle Retirement or Repair Assistance options of the CAP. However, the potential for the automotive repair industry to realize an increase in revenue from the repair of those vehicles may offset any adverse economic impact created by the extension of repair cost waiver eligibility to "near low–income" consumers.

Impact on Jobs/New Businesses:

The Bureau has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, other than the Business Impact described above, and that are known to the Bureau are:

Visible Smoke Test

Adding a smoke test to a Smog Check inspection/test may add a minute to the current procedure; however, other than the additional time, most consumers would be unaffected by this change. It is estimated that only a small fraction of the fleet — about 200,000 vehicles — will fail the smoke test.

Consumers whose vehicles are identified as smoking would incur additional repair costs. This would not be a new burden as State law already prohibits the operation of excessively smoking vehicles. This change would simply provide an additional mechanism to enforce the existing statute. Because excessive smoke is an indicator of an engine problem, consumers whose vehicles are repaired would reap the benefit of a better performing vehicle.

Eligibility for the Repair Cost Waiver

As provided in subdivision (e) of Section 44017 of the Health and Safety Code, the one time repair cost waiver is not available to motorists whose vehicles fail the visible smoke test, unless they meet income eligibility requirements established by the Bureau. Providing qualifying motorists with the benefit of the one time repair cost waiver will allow them to register their vehicles, after making some repairs, without incurring a major economic hardship. Most smoking vehicles require substantial engine repair at a cost far exceeding the minimum expenditure ($450) required to obtain a repair cost waiver. Some qualifying repairs may help to reduce vehicle smoke, however others may not.

Effect on Housing Costs:

None.

Effect on Small Business:

The Bureau has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above–mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 10240 Systems Parkway, Sacramento, California 95827.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

James Allen
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255–3460
Fax No.: (916) 255–1369
E–mail: jim_allen@dca.ca.gov

The backup contact person is:

Kathy Runkle
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827
Telephone: (916) 255–3460
Fax No.: (916) 255–1369
E–mail: kathy_runkle@dca.ca.gov

WEB SITE ACCESS

Materials regarding this proposal can also be found on the Bureau's Web site at www. smogcheck.ca.gov.

TITLE 18. FRANCHISE TAX BOARD

As required by section 11346.4 of the Government Code, this is notice that a public hearing has been scheduled to be held at 10:00 am., August 17, 2007, at 9646 Butterfield Way, Town Center Golden State Room A/B, Sacramento, California, to consider adoption of an amendment to existing Regulation section 25137(c) under Title 18 of the California Code of Regulations. This proposed regulatory action is specifically authorized under section 25137 of the California Revenue and Taxation Code, pertaining to the use of alternative apportionment methodologies.

An employee of the Franchise Tax Board will conduct the hearing. Thereafter, a report will be made to the three–member Franchise Tax Board for its consideration. Government Code section 15702, subdivision (b), provides for consideration by the three–member Board of any proposed regulatory action if any person makes such a request in writing. The three–member Board will consider the proposed regulation and comments submitted with respect to the proposed regulation prior to acting upon it at one of its meetings.

Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., August 17, 2007. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY & REFERENCE

Section 19503 of the Revenue and Taxation Code authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001) of the Revenue and Taxation Code. Section 25137 of the Revenue and Taxation Code provides the Franchise Tax Board with the authority to require, in cases where the standard apportionment formula does not fairly represent the extent of the taxpayer's business

activity in this state, alternative methods to effectuate an equitable and effective allocation and apportionment of a taxpayer's income. The proposed regulatory action interprets, implements, and makes specific section 25137 of the Revenue and Taxation Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Taxpayers who have business activities within and without California are required to determine the amount of income properly attributed to activities in California by use of the Uniform Division of Income for Tax Purposes Act (UDITPA), Section 25120 et seq., Revenue and Taxation Code (RTC). Under UDITPA, business income is assigned to a state through the application of a three–factor apportionment formula that separately compares a business' property, payroll and sales within California to those values everywhere. These three percentages are then added together and divided by three. For most California taxpayers the sales factor is counted twice (see RTC section 25128), and the resulting sum of these four factors is then divided by four. This percentage is then applied to the business income of the taxpayer to determine the percentage of business income attributable to California.

The three–factor apportionment formula was adopted as a way of reflecting the different elements that provide value to a taxpayer's operation in a given state. The payroll factor reflects the amount of labor utilized by the taxpayer in performing its activities in the state. The property factor reflects the amount of capital utilized by the taxpayer in the state. The sales factor reflects the market for the goods or services of the taxpayer in the state. It has been stated that the purpose of the sales factor is "to give weight to the obtaining of markets", balancing to some extent property and payroll factors that favor production or manufacturing states.

The proposed amendment to Regulation section 25137(c) addresses the treatment of receipts derived from a taxpayer's "treasury function" activity. A treasury function involves the pooling, management, and investment of intangible assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle. The treatment of treasury function activities in the sales factor has given rise to disputes as far back as the Board of Equalization's decision in Appeal of Pacific Telephone and Telegraph Co. (1978) 78–SBE–028 where the Board of Equalization held that the inclusion of treasury function receipts in the sales factor was distortive and that this distortion could be remedied by the Franchise Tax Board through the use of an alternative apportionment formula.

More recently, the California Supreme Court approved of the use of an alternative formula for treasury function activities. In Microsoft Corporation v. Franchise Tax Board (2006) 39 Cal.4th 750, the Court held that the inclusion of Microsoft's treasury function receipts in the sales factor denominator was distortive and upheld the Franchise Tax Board's use of an alternative formula which removed the receipts and included only net income from the treasury function in the sales factor denominator. In its opinion, the Court noted the Court of Appeals' policy argument that a systematic exclusion of these receipts may be preferable. The Court also cited to numerous examples where states have amended UDITPA to achieve this result, including the Multistate Tax Commission's model regulation regarding the treasury function, but concluded that the Court was not free to judicially amend UDITPA.

In a second case, General Motors Corporation v. Franchise Tax Board (2006) 39 Cal 4th 773, also involving this same issue, the California Supreme Court considered the nature of the particular investments, in that case repurchase agreements, and held that the proceeds from loans would be subject to different treatment for sales factor purposes. As a consequence, additional litigation can be expected as to the nature of various other financial instruments invested in as part of a treasury function, thus fostering continuing uncertainty in this area as to what should be included and what should be excluded from the sales factor.

This regulation is a response to the existing case law and functions to remove the gross receipts from a "treasury function" from the sales factor to eliminate future controversies. Taxpayers will retain the right to contest whether the removal of these receipts results in an unfair reflection of their activities in California under Section 25137 of the Revenue and Taxation Code, but will bear the burden of proof to establish that unfair reflection.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non–discretionary cost or savings imposed upon local agencies: None.

Cost or savings in federal funding to the state: None.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Potential cost impact on private persons or businesses affected: The Franchise Tax Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. At interested parties meetings held by the Franchise Tax Board staff, comments were made that a failure to regulate would require businesses to address the question of whether the standard formula results in a fair reflection of income on a case–by–case basis every year, and that this would give rise to substantial additional compliance costs for taxpayers. As a result of this comment, the Franchise Tax Board believes that this regulation will reduce this compliance burden by providing further certainty to taxpayers.

Significant effect on the creation or elimination of jobs in the state: At an interested parties meeting, comments were offered that failure to adopt the regulation might cause California–based companies to move their treasury departments out of state, with a resulting loss of jobs within California.

Significant effect on the creation of new businesses or elimination of existing businesses within the state: None.

Significant effect on the expansion of businesses currently doing business within the state: None.

Effect on small business: The allocation and apportionment rules are only utilized by multijurisidictional businesses, most of which are not small businesses. In addition, small businesses are unlikely to have staff performing a treasury function.

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no alternative considered by it would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

An initial statement of reasons has been prepared setting forth the facts upon which the proposed regulatory action is based. The statement includes the specific purpose of the proposed regulatory action and the factual basis for determining that the proposed regulatory action is necessary.

The express terms of the proposed text of the regulation and the initial statement of reasons and the rulemaking file are prepared and available upon request from the agency contact person named in this notice. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website mentioned below.

CHANGE OR MODIFICATION OF ACTIONS

The proposed regulatory action may be adopted by the Franchise Tax Board after consideration of any comments received during the comment period.

The regulation may also be adopted with modifications if the changes are nonsubstantive or the resulting regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that originally proposed. The text of the regulation as modified will be made available to the public at least 15 days prior to the date on which the regulation is adopted. Requests for copies of any modified regulation should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

The hearing room is accessible to persons with physical disabilities. Any person planning to attend the hearing who is in need of a language interpreter or sign language assistance, should contact the officer named below at least two weeks prior to the hearing so that the services of an interpreter may be arranged.

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at the Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741–1720; Telephone (916) 845–3306; Fax (916) 845–3648; E–Mail: colleen.berwick@ftb.ca.gov. The notice, initial statement of reasons and express terms of the regulation are also available at the Franchise Tax Board's website at www.ftb.ca.gov.

TITLE 22. EMPLOYMENT TRAINING PANEL

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Employment Training Panel (Panel) proposes to amend Sections

4400(r), 4409.1 and 4415 and to repeal Section 4440.1 of Title 22 of the California Code of Regulations. The Initial Statement of Reasons and Express Text of the proposed action are accessible through the *Pending Regulatory Actions* link on the Home Page of the ETP website (www.etp.ca.gov).

AUTHORITY AND REFERENCE

The Panel's rulemaking authority is contained in Unemployment Insurance (UI) Code section 10205(m).

The Panel is implementing, interpreting and making specific the following UI Code sections:

For section 4400(r): Sections 10200(a), 10201(b)(2)(A), (B), (3), (c), (f), (g), (i), (j), 10202, 10203, 10204(b), 10205, 10206(a)(1)(C), (a)(2), (3), 10207(a), 10209(a), (b), (d), (e), (f), (g), 10210(a), 10211, 10212(a), (b), (c), (d), 10212.1, 10212.2(a), (b), 10213, 10213.5(b), and 10214.5(a).

For section 4409.1: Sections 10205 and 10206.

For section 4415: Section 10200(a).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 4400(r), Payment Earned

The regulation now defines "payment earned" with reference to specific retention and wage requirements, which no longer accurately reflects program standards. It currently captures only some of the retention requirements ETP currently allows for a contractor to earn payment for a given project — employed for 90 consecutive days with a single employer, but no fewer than 500 hours within a maximum of 272 days at a specified wage.

The amendment makes this a general reference to all applicable retention and wage requirements. The amendment also clarifies that "payment earned" means the amount of reimbursement a contractor is entitled to retain upon termination of the contract, based on final billing per trainee.

Amend Section 4409.1 Employer Contributions

This regulation establishes the three primary notification criteria Multiple Employer Contractor (MEC) must follow when charging training–related costs to a participating employer and other procedural requirements the MEC and ETP must follow. It also forbids charging trainees for training costs.

The amendment clarifies the contractual nature of the notification; adds a requirement for prior review and approval of agreement or any writing conveyed by the MEC to participating employer that uses the ETP name or logo; and eliminates an Internet publication procedure that is impractical and has never successfully been implemented. The amendment changes the name to "Participating Employer contribution" for clarity.

Amend 4415, Workforce Training

This regulation caps funds for "supervisors and managers" at 40% of the total population in a given retraining project. The cap is waived for small businesses with 100 or fewer employees. Projects for training in a high performance workplace are exempt.

The amendment clarifies that supervisors and managers are workers who are exempt from overtime pay, consistent with the definition of "frontline workers" in Section 4400(ee). It exempts small business (100 or fewer employees) and entrepreneurial training. The amendment also eliminates the exemption for a high performance workplace because it is difficult to separate this type of training from other aspects of continuous improvement that are typically included in the curriculum for a given retraining project. The amendment changes the name of Section 4415 to "Management Training Cap" for clarity.

Repeal Section 4440.1, Advances

The current regulation establishes criteria for "advance payments" to public agencies and private, nonprofit organizations. Among other things, the regulation caps advances at 15% of funding and requires Department of Finance approval for advances over $400,000. It also requires a fidelity bond posted through an insurance carrier, naming the Panel as certificate holder; and possibly, a trust surety naming the Panel as beneficiary. The regulation is based on procedures in the Government Code applicable to advance payments on state procurement contracts issued by the EDD and other agencies — not ETP.

Those procedures are inconsistent with UI Code Section 10209(f), which authorizes partial payments of up to 75% of the approved amount of funding once training has started. In short, the regulation is inconsistent with the Panel's enabling law, burdensome to the public, and unnecessary. For these reasons, it should be repealed.

FISCAL DISCLOSURES

The Panel has made the following initial determinations regarding fiscal disclosures required by Section 11346.2 of the Government Code.

A. Fiscal Impact. The Panel has made an initial determination that the proposed actions do not impose costs or savings requiring reimbursement under Section 17500 *et seq*. of the Government Code. Furthermore, these actions do not impose non–discretionary costs or savings to any local agency; nor do they impact federal funding for the State.

The Panel has made an initial determination that the proposed actions do not impose costs or savings to any State agency pursuant to Section 11346.1(b) or 11346.5(a)(6) of the Government Code. Furthermore, there are no fiscal impact disclosures required by State Administrative Manual sections 6600–6670.

B. Cost Impacts. The Panel is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The same determination applies to housing costs. These actions simply clarify the Panel's definition of Job Creation and thus, there would be no costs associated with these actions.

C. Adverse Impact on Business. The Panel has made an initial determination that the proposed actions do not have any significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

D. Effect on Small Business. The Panel has determined that the proposed actions will not affect small businesses unless they seek training funds. Since this action would clarify and simplify the Panel's standards for reviewing and funding training proposals, this would be a positive effect.

E. Effect on Jobs and Business Expansion. The Panel has made an initial determination that the proposed actions would not create or eliminate jobs in California. Nor would they create new businesses or eliminate existing businesses in California. The Panel has made an initial determination that these actions would not directly affect the expansion of businesses currently operating in California.

F. Imposed Mandate. The Panel has made an initial determination that the proposed actions do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES

The Panel must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. Interested persons are welcome to identify reasonable alternatives during the written comment period.

WRITTEN COMMENT PERIOD

A 45–day written comment period has been established beginning on June 29, 2007 and ending at 5:00 p.m. on August 13, 2007. Any interested person, or his or her authorized representative, may present written comments on the proposed actions within that time period. Comments should be sent to:

Maureen Reilly or Spencer Kenner
Employment Training Panel, Legal Unit
1100 "J" Street, Fourth Floor
Sacramento, CA 95814
Telephone: (916) 327–5252/(916) 327–5578
E–Mail: mreilly@etp.ca.gov; skenner@etp.ca.gov
FAX: (916) 327–5268

PUBLIC HEARING

A public hearing will not be held unless an interested person or his or her authorized representative requests one. The request must be submitted in writing to the above address no later than 5:00 p.m. on the fifteenth day before the written comment period ends. The request should identify the specific regulatory action for which the hearing is requested.

MODIFICATIONS

Modifications to the text of the proposed regulatory actions may be made after the public comment period. If so, they will be posted on the ETP Website at www.etp.ca.gov. Any modifications will be open to public comment for at least 15 days before being adopted, as noticed on the ETP Website.

Per title 1, CA Code of Regulations, section 44, ETP will make the modifications available to all persons that: 1) testified at the public hearing (if held); 2) submitted written comments at the public hearing (if held); 3) commented during the public comment period; and 4) requested the agency notify them that the modifications would be available.

AVAILABILITY OF DOCUMENTS

The Panel has prepared an Initial Statement of Reasons for the proposed actions, and has compiled all information on which the actions were based. This statement, along with the express text of the proposed actions and the written information on which they were based, are available for inspection at the address shown above.

The Panel will prepare a Final Statement of Reasons at the conclusion of the public comment period. This final statement and the information on which it is based will also be available for inspection at the address shown above. This Notice of Proposed Rulemaking is posted on the ETP Website at www.etp.ca.gov. The Initial Statement of Reasons and the express text of the proposed actions are also posted on the ETP Website.

CONTACT PERSONS

Requests for copies of the express text of the proposed actions and the modified text (if any), and the Initial Statement of Reasons, should be directed to the address shown above. In addition, the "rulemaking file" of written information on which the proposed actions are based is available for inspection upon request.

TITLE 22. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF PROPOSED RULEMAKING

TITLE 22, CALIFORNIA CODE OF REGULATIONS

AMENDMENT TO SECTION 12805
SPECIFIC REGULATORY LEVELS:
CHEMICALS CAUSING
REPRODUCTIVE TOXICITY

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment proposes to establish a specific regulatory level having no observable effect for one chemical: di(*n*–butyl)phthalate (DBP), and amend Title 22, California Code of Regulations, Section 12805[1].

PUBLIC PROCEEDINGS

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **August 13, 2007**, which is hereby designated as the close of the written comment period.

Written comments regarding this proposed action can be sent by e–mail, mail or by fax addressed to:

Susan Luong
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation Program
P. O. Box 4010
Sacramento, California 95812–4010
FAX: (916) 323–8803
Telephone: (916) 445–6900
sluong@oehha.ca.gov

[1] All further regulatory references are to Title 22 of the California Code of Regulations unless otherwise indicated.

Comments sent by courier should be delivered to:

Susan Luong
Office of Environmental Health Hazard Assessment
1001 I Street, 19th Floor
Sacramento, California 95814

It is requested but not required that written statements or arguments be submitted in triplicate.

A public hearing to present oral comments will be scheduled only upon request. Such request must be submitted in writing no later than 15 days before the close of the comment period on August 13, 2007. The written request must be sent to OEHHA at the address listed below no later than **Monday, July 30, 2007**. A notice for the public hearing, if one is requested, will be mailed to interested parties who are on the Proposition 65 mailing list for regulatory public hearings and posted on the OEHHA web site at least ten days in advance of the public hearing date. The notice will provide the date, time, location and subject matter to be heard.

If a hearing is scheduled and you have special accommodation or language needs, please contact Susan Luong at (916) 445–6900 or sluong@oehha.ca.gov at least one week in advance of the hearing. TTY/TDD/Speech–to–Speech users may dial 7–1–1 for the California Relay Service

CONTACT

Please direct inquiries concerning the substance and processing of the action described in this notice to Susan Luong, in writing at the address given above, or by telephone at (916) 445–6900. Ms. Cynthia Oshita is a back–up contact person for inquiries concerning processing of this action and is available at the same telephone number.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code section 25249.5 et seq. and commonly known as Proposition 65 (hereinafter Proposition 65 or the Act), prohibits a person in the course of doing business from knowingly and intentionally exposing any individual to a chemical that has been listed as known to the State to cause cancer or reproductive toxicity, without first giving clear and reasonable warning to such individual (Health and Safety Code section 25249.6). The Act also prohibits a business from knowingly discharging a listed chemical into water or onto or into land where such chemical passes or probably will pass into any source of drinking water (Health and Safety Code section 25249.5).

For chemicals known to the state to cause reproductive toxicity, an exemption from the warning require-

ment is provided by the Act when a person in the course of doing business is able to demonstrate that an exposure for which the person is responsible produces no observable reproductive effect, assuming exposure at 1,000 times the level in question (Health and Safety Code sections 25249.9, 25249.10 and 25249.11). The maximum dose level at which a chemical has no observable reproductive effect is referred to as the no observable effect level (NOEL). The Act also provides an exemption from the prohibition against discharging a listed chemical into sources of drinking water if the amount discharged does not constitute a "significant amount," as defined, and the discharge is in conformity with all other laws and regulatory requirements (Health and Safety Code sections 25249.9 and 25249.11). Thus, these exemptions apply when the exposure or discharge in question is at a level that does not exceed the NOEL divided by 1,000.

Regulations previously adopted by the Office of Environmental Health Hazard Assessment (OEHHA) provide guidance for determining whether an exposure to, or a discharge of, a chemical known to cause reproductive toxicity meets the statutory exemption (Title 22, California Code of Regulations, sections 12801–12821). These regulations provide three ways by which a person in the course of doing business may make such a determination: (1) by conducting a risk assessment in accordance with the principles described in Section 12803 to derive a NOEL, and dividing the NOEL by 1,000; or (2) by application of the specific regulatory level adopted for the chemical in Section 12805; or (3) in the absence of such a level, by using a risk assessment conducted by a state or federal agency, provided that such assessment substantially complies with Section 12803(a). The specific regulatory levels in Section 12805 represent one one–thousandth of the NOEL.

This proposed regulation sets forth a maximum allowable dose level (MADL) for adoption into Section 12805 that was derived using scientific methods outlined in Section 12803.

Details on the basis for the proposed level are provided in the reference cited below, which are also included in the rulemaking record. The reference is a risk assessment document prepared by OEHHA describing and summarizing the derivation of the regulatory level listed below.

The proposed regulation would adopt the following regulatory level for one chemical known to cause reproductive toxicity into Section 12805:

Chemical	MARL, in units micrograms per day	Reference
Di(*n*–butyl)phthalate (DBP)	8.7	OEHHA (2007)

The risk assessment which was used by the Office of Environmental Health Hazard Assessment to determine the stated level is as follows:

Office of Environmental Health Hazard Assessment (OEHHA, 2007). Proposition 65 Maximum Allowable Dose Level (MADL) for Reproductive Toxicity for Di(*n*–butyl)phthalate (DBP). OEHHA Reproductive and Cancer Hazard Assessment Section, California Environmental Protection Agency, Sacramento, June, 2007.

AUTHORITY

Health and Safety Code Section 25249.12.

REFERENCE

Health and Safety Code Sections 25249.5, 25249.6, 25249.9, 25249.10 and 25249.11.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. The Office of Environmental Health Hazard Assessment has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

EFFECT ON HOUSING COSTS

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

OEHHA has determined that the proposed regulation will not impose any requirements on small business. Rather, the proposed regulation will assist small businesses subject to the Act in determining whether or not an exposure for which they are responsible is subject to the warning requirement or discharge prohibition.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the regulation, all the critical information upon which the regulation is based, and the text of the regulation. A copy of the Initial Statement of Reasons, a copy of the text of the regulation and a copy of the risk assessment which was used by OEHHA to determine the MADL are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at www.oehha.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on changed regulations and the full text will be mailed to individuals who testified or submitted written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such changes. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at www.oehha.ca.gov.

FINAL STATEMENT OF REASONS

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at www.oehha.ca.gov.

TITLE 22. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

Title 22. HEALTH PLANNING AND FACILITY CONSTRUCTION

Chapter 17. Licensed Mental Health Service Provider Education Program

NOTICE OF PROPOSED RULEMAKING

The Office of Statewide Health Planning and Development ("Office") proposes to adopt regulations to establish the statewide Licensed Mental Health Service Provider Education Program that is created in Health and Safety Code section 128454. The Office will consider all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

NOTICE is hereby given that no public hearing is scheduled. Any interested person may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for a public hearing must be received in writing by the OSHPD contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Office. The written comment period closes at 5:00 P.M. on August 14, 2007. The Office will only consider comments received at the Office by that time. Submit comments to:

Julie Montoya
Interim Regulation and Legislative Analyst
Health Professions Education Foundation
818 K Street, Room 210
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Health and Safety Code sections 127010 and 127015 authorize the Office to adopt regulations. The purpose of the proposed regulations is to implement, interpret, or make specific sections 128454 through 128458 of the Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 938 (Yee, Chapter 437, Statutes of 2003) created the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation (Foundation) in an effort to increase the number of culturally and linguistically competent mental health workers serving in underserved areas. Providing loan repayment to mental health professionals provides incentive for them to practice in underserved areas. Furthermore, historically, health professionals that have worked in underserved areas are more likely to continue working in underserved areas. AB 938 requires the Foundation to develop the Licensed Mental Health Service Provider Education Program, as prescribed, to provide grants to licensed mental health service providers, specifically, psychologists, marriage and family therapists, and licensed clinical workers, who provide direct patient care in a publicly funded facility or a mental health professional shortage area; and increases the biennial licensure renewal fee of mental health providers to the Board of Psychology and the Board of Behavioral Sciences by $10 to support this program.

AB 1852 (Yee, Chapter 557, Statutes of 2006), expanded the definition of a Licensed Mental Health Service Provider to include postdoctoral psychological assistants, postdoctoral psychology trainees, marriage and family therapist interns, and associate clinical social workers and expanded qualifying facilities to include, a public or nonprofit private mental health facility and a publicly funded mental health facility.

The Office proposes to adopt a new Chapter 17, which will be comprised of Sections 97930–97930.10, in Title 22 of the California Code of Regulations. The purpose of the regulations is to establish the provisions to administer the statewide Licensed Mental Health Service Provider Education Program as mandated in AB 938 and AB 1852.

Section 97930 Chapter Definitions will define terms used in new chapter 17 of Title 22 of the CCR for this program. The Office is proposing eleven (11) definitions.

Section 97930.1 Available Funding will specify that loan repayments shall be limited by the amount of funds in the Mental Health Practitioner Education Fund.

Section 97930.2 Loan Repayment Eligibility will specify that licensed psychologists, registered psychologists, postdoctoral psychological assistants, postdoctoral psychology trainees, marriage and family therapists, marriage and family therapist interns, clinical social workers, and associate clinical social worker may apply for a loan repayment. This section also specifies that applicants with a contractual service obligation to another entity are ineligible to receive a loan repayment.

Section 97930.3 Loan Repayment Awards will specify that the loan repayment shall repay outstanding governmental and commercial educational loans related to the recipient's education as a licensed mental health service provider. This section also specifies that the loan repayment award shall not exceed the estimated annual average cost of the respective mental health education program throughout California, or the total amount of debt owed.

Section 97930.4 Loan Repayment Contracts will specify that one (1) loan repayment at a time shall be issued to the recipient and additional awards may be granted if certain conditions are met.

Section 97930.5 Terms of Loan Repayment specifies that loan repayments shall be made on a quarterly basis and a quarterly report and updated lender statement must be provided before loan repayment funds are released. This section also specifies that, should outstanding loan(s) be repaid by the Office and funds re-

main in the recipient's contract, those funds shall be disbursed directly to the program recipient. This section also requires the recipient to make concurrent loan repayments.

Section 97930.6 Loan Application Process will specify that a completed application shall contain specific information.

Section 97930.7 Selection Process will specify that the Foundation shall consider the mental health workforce needs of the state, needs of qualified facilities and mental health professional shortage areas, and factors that indicate the probability of continuing service beyond the contractual service obligation. This section also indicates the factors used to evaluate the applicants.

Section 97930.8 Service Obligation Provisions for Loan Repayment Recipient will specify that the loan repayment recipient shall agree to a contractual service obligation to practice their mental health profession for twenty four (24) months in or through a qualified facility or in a mental health professional shortage area. The section specifies that the service obligation shall commence upon the signing of the contract between the Office and recipient, and shall be fulfilled in a full–time basis.

Section 97930.9 Penalties for Failure to Comply with Requirements of Program shall specify that failure to meet program requirements shall result in repayment of the loan repayment award plus interest.

Section 97930.10 Exceptions to Service or Payment Obligations shall specify that exceptions to service or payment obligations shall be made under certain circumstances.

DISCLOSURE REGARDING THE PROPOSED ACTION

The Office has made the following determinations:

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: Additional expenditures of $213,000 have been allocated in the Governor's FY 2006–07 Budget.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 to 17630: None
- Other non–discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None
- Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None. This program will provide loan repayment to Licensed Mental Health Providers, which should not adversely impact businesses in the state, including small businesses.
- Cost impacts on a representative private person or businesses: This program will provide loan repayment to Licensed Mental Health Providers, and the Office is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, including small businesses.
- Adoption of these regulations will not do any of the following: (1) Create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None

CONSIDERATION OF ALTERNATIVES

The Office must determine that no reasonable alternative considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

The Office invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Julie Montoya
Interim Regulation and Legislative Analyst
Health Professions Education Foundation
818 K Street, Room 210
Sacramento, CA 95814
(916) 654–2990

The backup contact person for these inquiries is:

Karen Isenhower
Program Director
Health Professions Education Foundation
818 K Street, Room 210
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AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

The Office shall have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Public Notice, the proposed text of regulations, the Initial Statement of Reasons, and materials upon which the Office relied in developing the regulations. Copies may be obtained by contacting Julie Montoya at the address and telephone number noted above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the written comment period and considering all timely and relevant comments received, the Office may adopt the proposed regulations substantially as described in this notice. If the Office makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least fifteen (15) days before the Office adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Julie Montoya at the address indicated above. The Office will accept written comments on the modified regulations for fifteen (15) days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Public Notice, the Initial Statement of Reasons, and the text of regulations in underline and strikeout format may be accessed through our websites at www.oshpd.ca.gov and www.healthprofessions.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication June 29, 2007
CESA CONSISTENCY DETERMINATION FOR
Blythe Energy Transmission Lines Project
Riverside County

The Department of Fish and Game ("Department") received a notice on June 11, 2007 that Blythe Energy, LLC proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the development of a 520 Megawatt natural gas–fired combined–cycle power plant, turbines, generators, and supporting structures including approximately 67 miles of new transmission lines. Project activities will result in impacts to approximately 154.7 acres of habitat for the desert tortoise (*Gopherus agassizii*), and could result in mortality of individuals of the species.

The U.S. Fish and Wildlife Service ("Service") issued a "no jeopardy" federal biological opinion (1–6–01–F–1166.3) to the Western Area Power Administration ("WAPA") on August 1, 2001 which considered the Project's impacts on the Federally and State threatened desert tortoise and authorizes incidental take. On November 22, 2005, the Service amended the biological opinion to include construction of the transmission lines.

Pursuant to California Fish and Game Code Section 2080.1, Blythe Energy, LLC is requesting a determination that federal biological opinion 1–6–01–F–1166.3 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, Blythe Energy, LLC will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication June 29, 2007
CESA CONSISTENCY DETERMINATION FOR
Natomas Cross Canal Phase 1 Levee Improvements
Sacramento County

The Department of Fish and Game ("Department") received a notice on June 5, 2007 that the Sacramento

Area Flood Control Agency ("SAFCA") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction of a slurry cutoff wall through the levee crown in the westernmost 9,700 feet of the Natomas Cross Canal south levee in order to remedy levee weaknesses that were identified in 2006. Project activities will result in impacts to approximately 27.3 acres of upland habitat suitable for the giant garter snake (*Thamnophis gigas*), and could result in mortality of individuals of the species.

The U.S. Fish and Wildlife Service ("Service") issued a "no jeopardy" federal biological opinion (1–1–07–F–0207) to the U.S. Army Corps of Engineers ("Corps") on June 1, 2007 which considers the Project's impacts on the Federally and State threatened giant garter snake and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, SAFCA is requesting a determination that federal biological opinion 1–1–07–F–0207 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, SAFCA will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication June 29, 2007
CESA CONSISTENCY DETERMINATION FOR
Oroville Facilities Relicensing Project 2100
Butte County

The Department of Fish and Game ("Department") received a notice on June 18, 2007 that the California Department of Water Resources ("DWR") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the continued operation and maintenance of the Oroville Facilities for electric power generation and other public purposes, future resource actions, road and bridge maintenance, weed control, and gravel harvest. Project activities will result in impacts to approximately 450 acres of habitat for the giant garter snake (*Thamnophis gigas*), and could result in mortality of individuals of the species. Project activities will also result in impacts to one or more nesting bald eagle (*Haliaeetus leucocephalus*) pairs and could result in nest abandonment or chick mortality.

The U.S. Fish and Wildlife Service ("Service") issued a "no jeopardy" federal biological opinion (1–1–07–F–0049) to the Federal Energy Regulatory Commission ("FERC") on April 9, 2007 which considers the Project's impacts on the Federally and State threatened giant garter snake and Federally threatened and State endangered bald eagle and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, DWR is requesting a determination that federal biological opinion 1–1–07–F–0049 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, DWR will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080–2007–010–01

PROJECT: Fisheries Restoration Projects Funded Under the Fisheries Restoration Grant Program and the Klamath River Restoration Grants Program

LOCATION: San Benito, Santa Cruz, San Mateo, Santa Clara, San Francisco, Alameda, Contra Costa, Solano, Napa, Marin, Sonoma, Mendocino, Humboldt, Del Norte, Siskiyou, Trinity, Glen, and Lake counties.

NOTIFIER: California Department of Fish and Game, Northern Region on behalf of the California Department of Fish and Game, Fisheries Branch

BACKGROUND

On May 1, 2007, the Director of the Department of Fish and Game (DFG) received a request from DFG's Northern Region for a determination pursuant to California Fish and Game Code (Code) Section 2080.1 that a federal biological opinion for projects funded through DFG's Fisheries Restoration Grant Program (FRGP) is consistent with the California Endangered Species Act ("CESA") (Fish and Game Code, §2050 *et seq.*). This request was made on behalf of those "persons" (as defined under Code Section 67) receiving grants from DFG's FRGP (including the Adaptive Watershed Management Fund Program) and the Klamath River Restoration Grants Program (collectively referred to as the "Program"). The purpose of the Program is to restore salmonid habitat in non–tidal reaches of rivers and streams, improve watershed conditions, and improve survival, growth, migration, and reproduction of native salmonids.

On September 8, 2004, the U.S. Army Corps of Engineers ("Corps") authorized implementation of salmonid habitat restoration projects ("projects") funded through the DFG's FRGP through issuance of a Regional General Permit No. 12 (RGP 12) (Corps file No. 27922N) pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). The RGP 12 specifically applied only to projects which were funded and/or authorized under the FRGP, consistent with State law, and implemented in a manner consistent with the *California Salmonid Stream Habitat Restoration Manual*. The Corps recently determined that the Klamath River Restoration Grants Program is also within the scope of RGP 12.

The Program created a process for the Corps to streamline permitting requirements for landowners and agencies to complete those projects. DFG is responsible for selecting grant recipients and administering the Program. The types of projects that will be authorized under the Program include instream habitat improvements, fish passage improvements, bank stabilization, riparian habitat restoration, upslope watershed restoration, and fish screen installations.

The watersheds within the areas covered by the Program are known to have populations of Southern Oregon/Northern California Coast ("SONCC") and Central California Coast ("CCC") coho salmon, in addition to other salmonids. CCC coho is listed as an endangered species under both the Federal Endangered Species Act ("ESA") (16 U.S.C. §1531 *et seq*.) and CESA. SONCC coho is listed as a threatened species under both ESA and CESA.

Temporary stream dewatering, temporary stream flow diversion, fish relocation, equipment refueling, and other activities necessary to implement some of the projects that will be authorized under the Program and pursuant to the RGP 12 could result in take of CCC and SONCC coho salmon. As a result, the Corps consulted with National Oceanic and Atmospheric Administration's National Marine Fisheries Service ("NMFS"). On May 21, 2004, NMFS issued a biological opinion (No. 151422SWR03AR8912:FRR/JTJ) to the Corps for the RGP 12 for the FRGP ("BO"). The BO describes the FRGP and the types of projects the FRGP authorizes and sets forth measures to minimize project impacts to CCC and SONCC coho salmon. On July 27, 2006, NMFS issued an amendment (SWR/2006/03088:FR) to the BO to address newly designated critical habitat, a change in the listing status of CCC coho from threatened to endangered, and minor modifications to the Terms and Conditions. On March 14, 2007, NMFS concurred in a letter to DFG that projects awarded under the 2006 Klamath Grant Program were covered by and consistent with the BO.

DETERMINATION

For projects authorized under the BO and in accordance with the Program, DFG has determined that the BO and incidental take statement ("ITS") are consistent with CESA because the mitigation measures therein meet the conditions set forth in Fish and Game Code Section 2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA–listed species. Specifically, DFG finds that the take of CCC and SONCC coho salmon will be incidental to an otherwise lawful activity (i.e., implementing salmonid habitat restoration projects under the Program); the measures identified in the BO and ITS will minimize impacts; the outcome of the projects will fully mitigate the impacts of the authorized take of CCC and SONCC coho; and the projects under the Program will not jeopardize the continued existence of those species. The avoidance and minimization measures include, but are not limited to, the following:

1. Fish relocation and dewatering activities shall only occur between June 15 and November 1 of each year. Dewatering of wetted stream channels shall be minimized to the fullest extent possible.
2. All electrofishing shall be performed by a qualified fisheries biologist in accordance with NMFS guidelines.
3. Effective erosion control measures shall be in place and maintained at all times during construction. Sediment–laden water shall be filtered before it leaves the right–of–way or enters a stream. All exposed soil in and around a project site shall be stabilized within 7 days.
4. Impacts to riparian vegetation shall be minimized and access points will avoid less stable areas to reduce the risk of channel instability. Disturbed riparian areas shall be revegetated with native plant species with 80 percent survival after a period of 3 years.
5. The primary objective of the projects implemented under the Program is to improve CCC and SONCC coho salmon habitat that will enhance their passage, survival, and reproduction.

If the Program or projects it covers as described in the BO, including the mitigation measures therein, changes after the date of the opinion, or if NMFS amends or replaces the BO, a new consistency determination (in accordance with Fish and Game Code Section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081) from DFG will be required to ensure program compliance with CESA.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080–2007–012–01

PROJECT: Lower Clear Creek Floodway Restoration Project, Phase 3B

LOCATION: Redding, Shasta County

NOTIFIER: Western Shasta Resource Conservation District

BACKGROUND

Western Shasta Resource Conservation District (WSRCD), in partnership with the U.S. Bureau of Reclamation (BOR) and Bureau of Land Management (BLM), proposes to rehabilitate salmon and steelhead habitats in a 1/2 mile section of lower Clear Creek that has been severely degraded by gravel extraction activities and by blockage of bed load by Whiskeytown Dam in accordance with an Action Specific Implementation Plan (ASIP) dated January 2007 (the Project). The Project will restore ecological function to this degraded section of lower Clear Creek through rehabilitation of natural stream channel and floodplain morphology that is vegetated with diverse native riparian vegetation. Restoration of natural stream processes would allow Clear Creek to meander across floodplains creating favorable habitat conditions (e.g., pools and riffles) for anadromous salmonids while also providing diverse habitat conditions for various wildlife species that use riparian habitat. While the resulting conditions are expected to benefit fish and wildlife resources, temporary impacts to anadromous fisheries could occur during dewatering and rewatering phases of the Project when the bypass channels are installed and removed.

Implementation of the Project could result in take of Sacramento River winter–run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring–run Chinook salmon (*O. tshawytscha*), and Central Valley steelhead (*O. mykiss*). Winter–run Chinook salmon is listed as endangered under both the federal Endangered Species Act ("ESA") (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act ("CESA") (Fish & G. Code, § 2050 *et seq.*), Central Valley spring–run Chinook salmon is listed as threatened under the ESA and CESA, and Central Valley steelhead is listed as threatened under the ESA.

Because the project has the potential to take species listed under the ESA, the BOR and BLM consulted with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS). On May 8, 2007, NMFS issued a "no jeopardy" Biological Opinion (151422–SWR–2007–SA00025) for the Project which describes the project actions and sets forth measures to mitigate impacts to Sacramento River winter–run Chinook salmon, Central Valley spring–run Chinook salmon, Central Valley steelhead, and temporary adverse impacts to spawning and rearing habitat in the area of the Project. Because Central Valley steelhead is not listed under CESA, it will not be addressed in this determination.

On May 10, 2007, the Director of the Department of Fish and Game (Department) received a notice from WSRCD pursuant to Section 2080.1 of the Fish and Game Code, requesting a determination that the Biological Opinion and associated Incidental Take Statement is consistent with CESA. An Action Specific Implementation Plan (ASIP) was submitted along with the request. The ASIP contained all information on effects to federal and state listed species, as well as state special habitat and species of concern. The analysis and conclusions in the NMFS Biological Opinion for the Project are based on implementation of the Project as described in the ASIP, including implementation of the conservation measures described therein; thus, the Department considers these measures to be incorporated into the NMFS Biological Opinion.

DETERMINATION

The Department has determined that the Biological Opinion, including its Incidental Take Statement, is consistent with CESA because the Project and mitigation measures it describes meet the conditions set forth in Fish and Game Code Section 2081 (b) and (c) for authorization of incidental take of species protected under CESA. Specifically, the Department finds that the take of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon will be incidental to an otherwise lawful activity (i.e., restoration of the Clear Creek floodway), the minimization measures identified in the ASIP and incorporated into the Biological Opinion and the enhanced habitat that will result from the implementation of the Project will minimize and fully mitigate the impacts of the authorized take, and the Project will not jeopardize the continued existence of the species. These minimization and mitigation measures include but are not limited to the following:

1. WSRCD shall implement the Project as described in the January 2007 ASIP.

2. Equipment shall not be operated in the stream channels of flowing live streams except as may be necessary to construct crossings or barriers and fills at channel changes.
3. Temporary fills shall be constructed of nonerodible materials such as clean washed gravel or, if constructed of materials subject to erosion, they must first be enclosed by protective material to prevent discharge of silt to surface waters.
4. When work in a flowing stream is unavoidable, the entire streamflow shall be gradually diverted around the work area by a barrier, temporary culvert and/or a new channel capable of permitting upstream and downstream fish movement. Construction of the barrier and/or new channel shall proceed in a manner that minimizes sediment discharges and facilitates both fish rescue operations and fish escape from the work area.
5. To the greatest extent possible, in channel construction activities shall be isolated from free flowing waters of Clear Creek. Flows shall be diverted to temporary channels prior to construction of newly restored channels. When flow is being diverted away from an existing stream channel to accomplish channel changes, fish rescue operations shall be implemented and supervised by a qualified biologist for a 24– to 74–hour period. While the fish rescue operations are underway, the channel exit shall remain unobstructed and must allow sufficient water to pass through the channel to allow fish to exit and to maintain fish in good condition.
6. Uncrushed cleaned gravels (1/2–inch to 5–inch) shall be used to construct necessary stream crossings. Following construction these gravels shall be leveled and left instream to improve spawning habitat for anadromous salmonids.
7. Adequate fish passage conditions shall be maintained through the Gravel Mined Site during implementation of rehabilitation activities.
8. Construction of all rehabilitation actions shall comply with Central Valley Regional Water Quality Control Board (RWQCB) Basin Plan Objectives and a Water Pollution Prevention Plan and standard Best Management Practices (BMPs) shall be obtained and incorporated into the project description.
9. Installation and removal of stream crossings shall be limited to the period between June 1 and November 15. All but one of the stream crossings will be removed prior to October 31. Limiting construction activities to this period will reduce potential adverse impact to spawning adults and incubating eggs, fry and juveniles.
10. The WSRCD shall monitor and report to NMFS on the efficacy of the proposed conservation measures and any documented take that results from the construction of the project.
11. The project as implemented will improve winter–run and spring–run Chinook salmon habitat in a way that will enhance their passage, survival, and reproduction.

The following ASIP conservation measures also apply and tier from the Multi–Species Conservation Strategy programmatic conservation measures for winter–run and spring–run Chinook salmon:

- For all in–channel and near–channel construction activities, implement construction BMPs (such as erosion and sediment control measures) and conservation measures in the 404 Nationwide Permit, General Permits and PL84–99 USACE flood relief biological opinion:
    - Avoid or minimize channel modifications during time periods when winter–run Chinook salmon and spring–run Chinook salmon are vulnerable to direct and indirect adverse effects of construction activities.
    - Avoid or minimize channel modifications in important natal, rearing, and migratory habitats that may result in habitat degradation and diminished habitat connectivity.
    - Avoid, minimize, and compensate for all adverse impacts on in–stream, shallow–water, riparian and shaded riverine aquatic habitats resulting from CALFED actions, including bank protection of in–channel islands, construction of attached berms, and levee program actions.
    - Compensate for adverse impacts on habitats by in–kind onsite replacement of habitats and their functional values. Compensation shall result in a net increase in the extent and connectivity of these habitats for migrating, rearing, and spawning winter–run Chinook salmon and spring–run Chinook salmon (as well as *fall–/late fall–run Chinook salmon and steelhead*).
- Implement construction BMPs including storm water pollution prevention plans, toxic materials control and spill response plans, vegetation protection plans, and restrictions on materials used in channel and on levee embankments:

- All materials that are used for construction of in–channel structures must meet applicable State and federal water quality criteria. Avoid or minimize the use of such materials that are deleterious to aquatic organisms.
- Discharges from controllable sources of pollutants and releases from water supply reservoirs shall be conducted in a manner that attains those water quality objectives designated by the Central Valley RWQCB for the maintenance of salmon and steelhead in designated habitats.

Pursuant to Section 2080.1 of the Fish and Game Code, no incidental take authorization under CESA will be required for incidental take of winter–run and spring–run Chinook salmon during the project as it is described in the biological opinion, provided WSRCD complies with the mitigation measures and other conditions described in the biological opinion. If there are any substantive changes to the project including changes to the mitigation measures or if NMFS amends or replaces the biological opinion, WSRCD will be required to obtain a new consistency determination or a CESA Incidental Take Permit (in accordance with Fish and Game Code section 2081) from the Department.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION
Fish and Game Code Section 2080.1
Tracking Number 2080–2007–007–01

PROJECT: Rehabilitation of Culverts on State Routes 128 & 253

LOCATION: Tributaries to Navarro and Russian Rivers (Post Miles 0.19 to 50.59 (SR 128) & 0.99 to 17.15 (SR 253)), Mendocino and Sonoma Counties

NOTIFIER: California Department of Transportation

BACKGROUND

The California Department of Transportation (Caltrans) is proposing to rehabilitate or replace deteriorated culverts and install drainage inlet and outlet structures on State Routes (SR) 128 and 253 in Mendocino and Sonoma counties ("project"). Deteriorating culverts will be replaced or rehabilitated at 274 locations on tributaries to the Navarro and Russian rivers. The project is slated to begin in 2007 and be completed by 2010.

Activities associated with the culvert replacements and rehabilitations will vary depending on site conditions. Some of the channel–based activities include diversion of stream flow around work sites, excavation of fills, use of horizontal jacking or pneumatic ramming methods at some locations, driving piles in a dewatered stream reach, installation of plastic liners or paving the bottom of some culverts, filling poorly–positioned old culverts and installing new culverts at nearby locations, minor channel grading, adding or replacing concrete headwalls/endwalls, placement of rock slope protection (RSP), and installation of weirs for fish passage (at select sites). The project also requires removal of vegetation for equipment access roads and staging areas.

According to the Caltrans biological assessment (January 2004), project activities have the potential to affect listed salmonids at 49 of the 274 culvert sites based on field investigation, literature review, and discussion with agency personnel. The presence of listed salmonids at the other 225 sites was considered unlikely due to lack of flow during the construction period or presence of downstream barriers. Federally–listed salmonids that may occur at the 49 culvert sites at some time of the year are:

- steelhead trout (*Oncorhynchus mykiss*) of either the Northern California Evolutionarily Significant Unit (ESU) or the Central California Coast ESU,
- coho salmon (*Oncorhynchus kisutch*) of the Central California Coast ESU, and
- Chinook salmon (*Oncorhynchus tshawytscha*) of the California Coastal ESU.

Only the Central California Coast (CCC) coho salmon is listed pursuant to both the Federal Endangered Species Act (ESA; 16 U.S.C. §1531 *et seq*.) and the California Endangered Species Act (CESA; Fish and Game Code §2050 *et seq*.). The coho salmon of the CCC ESU is listed as an endangered species under both Federal and State acts. This consistency determination is made in reference to CCC coho salmon as the only salmonid species currently listed pursuant to CESA.

Since the project has the potential to "take" anadromous fish species that are listed pursuant to ESA, and has a federal nexus through Federal Highway Administration (FHWA) funding, the FHWA consulted with the National Marine Fisheries Service (NMFS) and on January 4, 2005, NMFS issued a "no jeopardy" biological opinion (No.151422SWR2004SR20089:DJL) to FHWA for the project. The biological opinion and incidental take statement described the project and set forth measures to avoid and mitigate project impacts to CCC coho salmon and other federally–listed species. On January 10, 2007, NMFS summarized its conclusions for the reinitiation of consultation due to changes in listing status and critical habitat designation (No.

F/SWR/2006/06495). NMFS concluded that the incidental take statement provided with the biological opinion dated January 4, 2005, including its terms and conditions, remained valid.

Based on information contained in the first NMFS biological opinion (January 2005) and the Caltrans biological assessment (see Table E), project activities at 44 of the culvert sites may affect, but are not likely to adversely impact State– and/or Federally–listed salmonids. Stream channels are expected to be dry during the work season. Caltrans avoidance measures include stipulations that no work will be conducted in the live channels of streams. Therefore, the NMFS biological opinion is specific to the five sites where project activities have the potential to incidentally take federally–listed fish species.

Take of CCC coho salmon may occur at four of the five sites analyzed in the biological opinion (Table E of the Caltrans biological assessment). All of these sites are located on SR 128 in Mendocino County. Except for the Navarro River, the North Fork Navarro River, and two larger tributaries of the Navarro River (Indian Creek and Rancheria Creek), documentation of coho presence in the Navarro River watershed is limited. NMFS concurred with the Caltrans assessment that four project sites — Clow (PM 21.80), Graveyard (PM 27.54), Lost (PM 36.63), and John Hiatt (PM 39.88) creeks — are accessible by coho salmon, but during the seasonal work window coho are likely to be rare. The Caltrans biological assessment states that there is a complete barrier to fish passage on John Hiatt Creek at the PM 39.37 crossing, which is approximately one half mile downstream from the culvert at PM 39.88 (a proposed site for fish passage retrofit to an existing culvert). A new double box culvert is proposed for a fifth site, Edwards Creek (tributary to the Russian River), contains potential habitat for steelhead, but not coho.

Activities at the four sites, listed above, that could result in "take" of coho salmon include:

- stream dewatering and relocation of fish;
- elevated sound pressure levels associated with driving approximately 14 piles, of 30 by 30 cm diameter, near the dewatered work site and possible hydraulic ramming method for 10 foot–diameter culvert installation at Clow Creek site;
- increased mobilization of sediment; and/or
- accidental release of toxic chemicals (fuel or oil leaks, bentonite clay used as a lubricant if jacking method is used instead of ramming for 10 foot pipe installation).

Overall benefits to fish and aquatic resources of the culvert replacement and rehabilitation project (274 sites) include reduction of road–related sediment with improvements of culvert sizing and integrity and the improvement of fish passage at the specific sites named above. Caltrans has proposed the incorporation of design elements to improve anadromous fish passage at the specific sites with the goal of improving access to potential upstream spawning habitat while also adding a small amount of pool rearing habitat at the weir step pools. The streams at the project sites are shallow with few pools and reduced surface flow in the summer and fall, and as such provide limited habitat for juvenile salmonids. Improved culvert sizing at the Clow Creek site, installation of step pool weirs at Graveyard, Lost, and John Hiatt creek sites, and addition of cobble substrate to all sites are actions expected to increase reproductive success of the salmonids that inhabit these streams.

On April 3, 2007, the Director of the Department of Fish and Game (DFG) received correspondence from Caltrans requesting a determination pursuant to §2080.1 of the Fish and Game Code that the NMFS biological opinion/incidental take statement is consistent with CESA.

DETERMINATION

DFG has determined that the biological opinion/incidental take statement is consistent with CESA because the mitigation measures required therein meet the conditions set forth in Fish and Game Code §2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA–listed species. Specifically, DFG finds that the take of CCC coho salmon will be incidental to an otherwise lawful activity; the mitigation measures identified in the project description and biological opinion will minimize and fully mitigate the impacts of the authorized take of CCC coho; and the project will not jeopardize the continued existence of the species. The mitigation measures in the biological opinion/incidental take statement include, but are not limited to, those summarized as follows:

1. A qualified biologist with expertise in handling, collecting, and relocating salmonids, salmonid habitat relationships, and biological monitoring shall be retained. The biologist shall capture fish from the area to be dewatered and relocate them to suitable habitat either upstream or downstream of the project. The biologist shall have a separate Section 10 ESA authorization to conduct fish capture and relocation. If electrofishing is used, it shall be performed by a qualified biologist following NMFS and DFG guidelines. If any coho salmon are found dead or injured, the biologist shall contact NMFS immediately.

2. Fish shall be handled with extreme care and kept in cool, shaded, aerated water, and protected from excessive noise or overcrowding between capture and release. The biologist shall have at least two holding containers and segregate young–of–the–year fish from larger age–classes and other potential aquatic predators. Captured salmonids will be relocated, as soon as possible, to instream locations where conditions allow for survival of the relocated fish as well as those already inhabiting the location.
3. The qualified biologist shall monitor all sediment control devices to ensure that they are functioning properly. Upon notification from the biologist, FHWA and their contractors shall halt work to investigate any devices that are not functioning properly. Measures to correct the problem shall be agreed upon by NMFS, the contracted biologist, and FHWA.
4. Prior to commencement of work, FHWA or Caltrans shall submit the final engineering designs for the weir–type, habitat–enhancement structures and culvert retrofit structures related to fish passage to NMFS for evaluation and approval prior to implementation.
5. The standard of success for revegetation activities is 80 percent survival of plantings or 80 percent ground cover for broadcast seeding after a period of three years.
6. The FHWA and Caltrans shall ensure that a hydroacoustic monitoring program is implemented at the Clow Creek site, if there is any wetted channel downstream of the downstream cofferdam during the construction period. If residual pools are present in Clow Creek downstream of the downstream cofferdam during the first day of pile driving activities, the qualified biologist must observe those pools for evidence of adverse responses by salmonids to the pile driving activities. The biologist must rescue and relocate any salmonids that appear to be expressing an adverse response to the pile driving.
7. The US Army Corps of Engineers shall provide a written report to NMFS by January 15 following the completion of each construction season. The report shall contain, at a minimum, the following information: construction–related activities, including the begin and end dates of construction and the number of salmonids killed or injured during the project action; revegetation, including description and photographs of locations planted or seeded with assessment of success; and fish relocation, including description and photographs of locations from which fish were removed and release sites, dates and times of relocation effort; the number of fish relocated by species; a brief narrative of possible causes of mortalities or injuries and any unforeseen effects.

DFG has determined that the fish passage improvements at the four sites described by Caltrans in the biological assessment will serve to fully mitigate for take of an estimated 13 coho salmon juveniles and other associated impacts to the species as anticipated by NMFS. Improved access to potential spawning habitat made available by replacing one undersized culvert and the addition of step pool weirs can lead to additional reproductive success for coho. The creation of step pools by the weirs and the addition of cobble substrate mimicking the natural stream bottom to culverts may also contribute rearing habitat for coho juveniles, if temperature and flow conditions are appropriate. The anticipated increase in juvenile production and survivorship will compensate for the level of coho mortality and disturbance attributed to this project.

With DFG's consistency determination, Caltrans will not need to obtain approval from DFG pursuant to CESA (Fish and Game Code §2081) for take of coho salmon that occurs while carrying out the project, provided Caltrans implements the project exactly as described and complies with the mitigation measures and other conditions described in the biological opinion and incidental take statement. However, if the project described in the biological opinion, including the mitigation measures therein, changes after the date of the opinion, or if NMFS amends or replaces that opinion, Caltrans will need to obtain a new consistency determination (in accordance with Fish and Game Code §2080.1) or a separate incidental take permit (in accordance with Fish and Game Code §2081) from DFG.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Title 14 of the California Code of Regulations

[Notice Published June 29, 2007]

NOTICE OF CORRECTION FOR PROPOSED RULEMAKING
Fire Hazard Severity Zones, 2007

The California Department of Forestry and Fire Protection (CAL FIRE) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

CAL FIRE proposes to amend the following sections of Title 14, Chapter 7. Fire Protection, Subchapter 3

Fire Hazard, Article 1. Fire Hazard Severity, of the California Code of Regulations (14 CCR):

§1280. Fire Hazard Severity Zones

NOTICE OF CORRECTION

Below are public hearing information corrections for Alameda, El Dorado and Humboldt Counties. All other information previously published for these three hearings is obsolete and deleted from the Notice. All other hearing information remains the same for other counties as published in the May 25, June 1, and June 19, 2007, hearing notices under this same regulatory title.

Correction of hearing information

County Name	Hearing Date and Time	Hearing Location	Local Contact Person
Alameda	July 10, 1:00 PM	Alameda County Emergency Operations Center, 4985 Broder St., Dublin, CA 94586	Eric Wood (408) 778–8620
El Dorado	June 25, 3:00 PM	Bethell–Delfino Agriculture Building, 311 Fair Lane, Placerville, CA 95667	Gianni Muschetto (530) 647–5234
Humboldt	June 20, 1:00 PM	Humboldt County Board of Supervisors Chambers, 835 5th Street, Eureka, CA	Jim Moranda (707) 726–1202

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to CAL FIRE. The written comment period ends at 5:00 P.M., on Tuesday, July 31, 2007. CAL FIRE will consider only written comments received at the Department office by that time (in addition to those written comments received at the public hearing). CAL FIRE requests, but does not require, that persons who submit written comments to CAL FIRE reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Christopher Zimny
Regulations Coordinator
California Department of Forestry
and Fire Protection
P.O. Box 944246
Sacramento, CA 94244–2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

California Department of Forestry
and Fire Protection
Resources Building
1416 9th St., Room 1517
Sacramento, CA 95818

Written comments may also be sent to CAL FIRE via facsimile at the following phone number:

(916) 653–8957

Written comments may also be delivered via e–mail at the following address:

chris.zimny@fire.ca.gov

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Christopher Zimny
Regulations Coordinator
California Department of Forestry
and Fire Protection
P.O. Box 944246
Sacramento, CA 94244–2460

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, phone number (916) 653–5602 at the above address.

The regulation, maps, and Geographic Information System data for the maps can be electronically viewed and downloaded at: **http://www.fire.ca.gov/wildland.php**

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

CAL FIRE has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

CAL FIRE will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address.

California Department of Forestry
and Fire Protection
Resources Building
Room 1517
1416 9th St.
Sacramento, CA 94816
Attention: Christopher Zimny
Tel: (916) 653–9418

All of the above referenced information is also available on the CAL FIRE website at: http://www.fire.ca.gov/wildland.php

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, CAL FIRE may adopt the proposed regulations substantially as described in this notice. If CAL FIRE makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before CAL FIRE adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

a) testified at the hearings,
b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
c) requested notification of the availability of such changes from CAL FIRE.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. CAL FIRE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency
Office of Environmental Health
Hazard Assessment
Notice to Interested Parties

June 29, 2007

ANNOUNCEMENT OF SECOND PUBLIC COMMENT PERIOD

Draft Technical Support Documents on Proposed Public Health Goals for **Copper and TCDD (Dioxin) in Drinking Water**

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the availability of the revised draft technical support documents for proposed Public Health Goals (PHGs) for copper and TCDD (2,3,7,8–tetrachlorodibenzodioxin, also known just as dioxin) in drinking water. The draft documents are posted on the OEHHA Web site (www.oehha.ca.gov). OEHHA is soliciting comments on the draft reports during a 30–day comment period. OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for receiving public input.

OEHHA will evaluate all the comments received and revise the document as appropriate. Written comments must be received at the OEHHA address below by 5:00 p.m. on July 30, 2007 to be considered before publication of the final document. The final document will be posted on our Web site along with responses to the major comments received during the public review and scientific comment periods.

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365) requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be consid-

ered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622–3170 or the address below.

Thomas Parker (tparker@oehha.ca.gov)
Pesticide and Environmental Toxicology Branch
Office of Environmental Health Hazard Assessment
California Environmental Protection Agency
Headquarters: 1001 I Street, 12th floor
Sacramento, California 95814
Mailing address: P.O. Box 4010, Sacramento, CA 95812–4010
Attention: PHG Project

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

California Environmental Protection Agency
Office of Environmental Health
Hazard Assessment
Notice to Interested Parties

June 29, 2007

ANNOUNCEMENT

Publication of
Technical Support Document and
Responses to Comments
On Public Health Goal for
GLYPHOSATE
in Drinking Water

The Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency is announcing the publication of the technical support document for a Public Health Goal (PHGs) for glyphosate in drinking water, which is an update of the PHG published in 1997. The final document and responses to comments received are posted on the OEHHA Web site (www.oehha.ca.gov/water/phg/index.html). OEHHA follows the requirements set forth in Health and Safety Code Sections 57003(a) and 116365 for developing the PHGs and providing for public input on the documents.

The first draft of the glyphosate PHG document was posted on the OEHHA Web site (www.oehha.ca.gov) on March 3, 2006 and a one–day public workshop was held on the same date to discuss the scientific basis and recommendations in the draft technical support document. Following the workshop, OEHHA revised the document and made it available on August 4, 2006 for a 30–day public review and scientific comment period. OEHHA has considered all comments from interested parties at the workshop and during the public review and scientific comment periods, and has now finalized the document.

The PHG technical support documents provide information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (Health and Safety Code Section 116365), requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting drinking water standards (Maximum Contaminant Levels, or MCLs).

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Sacramento, California 95814

Mailing address: P.O. Box 4010
Sacramento, CA 95812–4010
Attention: PHG Project

FAX: (916) 327–7320

RULEMAKING PETITION DECISIONS

DEPARTMENT OF SOCIAL SERVICES

May 1, 2007

Akop Baltayan
Law Offices of Akop Baltayan
1525 Cleveland Road
Glendale, CA 91202

Dear Mr. Baltayan:

SUBJECT: PETITION FOR ADOPTION OF REGULATIONS

The California Department of Social Services is in receipt of the Petition for Writ of Mandate, filed by your client Volunteer Refugee Aid International, Inc., in the Superior Court of California, County of Los Angeles,

on April 2, 2007. The Department has interpreted your client's prayer for relief "to order the California Department of Social Services to adopt regulations authorizing licensees to be heard or to intervene in licensee employee or board member decertification and/or exclusions" as a petition to adopt regulations pursuant to Government Code section 11340.6. As explained more fully below, CDSS does not believe the requested regulations are appropriate or necessary.

The Department believes permitting licensees to intervene in actions wherein the Department seeks to exclude an individual or decertify an administrator will result in protracted litigation, an undue consumption of time, and enlarge the issues in the administrative action. The efficient and expeditious resolution of exclusion and administrator decertification actions is necessary and paramount to the health, safety and welfare of clients in care. Moreover, the decision to deny the request to adopt regulations allowing licensees to formally intervene in an individual's exclusion or administrator decertification proceeding does not diminish or prohibit the ability of licensees to otherwise participate in administrative actions as they may be called as witnesses during the proceedings during which they can present support for the employee or administrator and attend hearings as they are open to any member of the public.

In accordance with Government Code section 11340.7, subdivision (d), a copy of the denial of your petition will be sent to the Office of Administrative Law. Interested persons may obtain a copy of the petition from the Department.

If you have questions regarding the Department's decision, you may contact Suzann Gostovich, Staff Counsel, at (916) 657–1640.

Sincerely,

/s/

JO FREDERICK
Deputy Director
Community Care Licensing Division
California Department of Social Services

c: Office of Administrative Law

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

ACCEPTANCE OF PETITION TO REVIEW ALLEGED UNDERGROUND REGULATIONS

Published Pursuant to Title 1, section 270(e), California Code of Regulations

DEPARTMENT OF HEALTH SERVICES
Reduced Pressure Devices on Greywater Irrigation — CTU No. 06–07–0516–01

Pursuant to Section 270(e) of Title 1 of the California Code of Regulations, the Office of Administrative Law has accepted the following petition for consideration of an alleged underground regulation.

Petition to the Office of Administrative Law

Re: An Underground Regulation

From: Stephen Wm. Bilson, Petitioner
PO Box 210171
Chula Vista, California 91921
(619) 421–9121
stevebilson@rewater.com

Date: May 14, 2007

This Petition is submitted by Stephen Wm. Bilson, Petitioner, for your legal opinion about whether the California Department of Health Services (DHS) is implementing an Underground Regulation per Government Code § 11340.5 when DHS requires local agencies to interpret DHS Policy Memorandum 99–001 (Exhibit 1), regarding the use of reduced pressure devices (RPs) on greywater irrigation systems installed pursuant to Water Code § 14875 et seq. (Exhibit 2), in such a way as to end up requiring two RPs on a greywater system, and/or when DHS overrules local agencies that interpret DHS Policy Memorandum 99–001 to allow only one RP on a greywater irrigation system installed pursuant to Water Code § 14875 et seq., resulting in the requirement of two RPs on a greywater irrigation system, doubling the cost of protecting a water supply and defeating the Legislature's intent for Water Code § 14875 et seq., the state greywater irrigation law, and its subsequent implementation code, Title 24, Division 7 of the California Administrative Code, aka Appendix G of the California Plumbing Code ("the Code", Exhibit 3) to provide greywater irrigation systems that people can afford.

That redundant RP and its unnecessary upfront and annual testing and maintenance expenses have repeatedly proven to be a negative factor in Petitioner's lawful greywater irrigation system business. DHS' requirement and/or overruling of local authority is dissuading everyone in the state from lawfully reusing their greywater for irrigation, thus is helping to keep the state from accruing the billions of dollars in various environmental benefits that can result from greywater irrigation upstream, on site, and down stream of the actual greywater use.

In this era of prolonged drought and perhaps even man–made climate change, with the growing state of California now preparing to spend tens of billions of

dollars over the next few years on new water sources, wastewater treatment facilities, water pollution remedies, and power production plants, all of which greywater irrigation systems directly and substantially reduce the need for, where all greywater irrigation's values, except for water use, accrue to the *public*, DHS' Underground Regulation is especially bad public policy, and DHS formally denies that it is their policy. But the facts prove otherwise.

STATEMENT OF FACTS

In early 1992, I helped draft and I sponsored Assembly Bill AB3518 (Exhibit 4), authored by my Assemblyman, Byron Sher, (D, Palo Alto), which directed the California Department of Water Resources (DWR), in consultation with the California Department of Health Service (DHS), to write a code for safe greywater use for single–family homes. Greywater is shower, tubs, bathroom sink, laundry, and similar types of water. AB3518 recognized greywater as a very valuable resource and was written for the use of this very valuable resource. Almost countless societal factors were considered during AB3518's drafting.

The main purposes of AB3518 was to provide everyone anywhere in the state wanting a greywater reuse system a uniform code for the permitting of safe systems, to make that code readily available to them, and to make systems cost effective enough that people would install them. AB3518 was passed unanimously in both the Assembly and the Senate and was signed into law by then–Governor Wilson in July 1992. AB3518 became California's greywater irrigation law, Water Code §14875 et seg.

I invested approximately 2,000 hours of my life over three years on AB3518 and its subsequent legally–mandated Code–writing process, and numerous people from other organizations, agencies, and businesses collectively invested tens of thousands of hours in this Code–writing endeavor. Also participating in that Code–writing process were numerous state agencies including DWR and DHS, State Water Resources Control Board, California Water Commission, and California Building Standards Commission.

Also, participating in that process was the International Association of Plumbing and Mechanical Officials (IAPMO), which writes the Uniform Plumbing Code (UPC), which is the model plumbing code for 17 states including California. One item in the proposed state Code that IAPMO opposed was allowing any type of connection of fresh water to a greywater system, as any connection conflicted with the UPC. Public debate in numerous properly–noticed public hearings convinced DWR and DHS that it was important to allow a practical way to include a connection to fresh water, if the state was ever to achieve the large–scale use of greywater that it desired.

The original version of the state Code required an air gap to protect a public water supply from a connection to a greywater system. An air gap is a physical separation of the water supply pipe and the tank into which that pipe is discharging. But an air gap did not allow backwashing of greywater system filters except through an expensive secondary pumping station of stored fresh water, which made automatic greywater filter systems so expensive they were financially completely out of reach for anyone but large commercial users, which could not even legally have a system under the Code at that time. An air gap also kept a greywater irrigation system from being able to supplement irrigation with pressurized fresh water when nobody produced greywater, such as when they went on vacation, unless that system had the same expensive secondary pumping station setup, making a greywater system a redundant frill versus a primary irrigation method. In October, 1994, the state approved its 13–page single–family residential greywater irrigation code, the Code.

In early 1995, I sponsored another bill, AB313, which directed DWR and DHS to amend the Code to include provisions for multi–family, commercial, and institutional greywater irrigation systems and to require DWR to include details for underground drip irrigation. Drip irrigation needed a high degree of filtration, and such filters needed high pressure water to clean them. Fresh water was also needed for supplemental irrigation, such as when the owner was away on vacation and not producing any greywater. The Code was formally revised to allow the use of air gaps and "other devices" to protect the fresh water supply.

Some DHS employees did not want anything allowed to protect a public water supply from a greywater irrigation system other than an air gap, so they opposed the use of anything but an air gap. Those few DHS employees refused to give credence to considerable expert testimony, even from within their own agency, that RPs are often a preferred method of protection for a water supply in field conditions, because air gaps are routinely removed after being inspected, to reduce "splash", to stop vermin from entering the tank into which the water flows in that opening, to prohibit microbial access to the source water pipe, and for other reasons. Removing an air gap is fast and cheap to do, and once done, there is absolutely no protection of the water supply, thus, the majority of people involved in the code–revision process actually favored RPs over air gaps. (For these purposes, a RP is a big brass device that sticks up at least 12 inches above ground and has two one–way spring–loaded pistons inside, which open up and dump water

on the ground when water reverses direction, keeping that water from traveling back into the supply side.)

The Code was revised by DWR and the changes regarding multi–family, commercial, and institutional greywater irrigation systems and the use of "other devices" to protect the water supply were accepted by the Building Standards Commission, and the revised Code became effective for the public in March, 1997.

As indicated by my letter dated August 11, 1998, to Cliff Sharp, Chief, Drinking Water Field Operations Branch, DHS, (Exhibit 5) after the second Assembly Bill became law, there was much public debate between DHS and numerous water agencies, ReWater Systems, Inc., and various city and county health and building officials, over what type of "other devices" were acceptable to protect a public water supply from a greywater system, which DHS is legislatively tasked to protect. DHS already had a long–standing written policy that had been formally adopted as a regulation for protecting water supplies from virtually every type of potential source of contamination except a greywater irrigation system, and DHS began a long formal investigation of acceptable types of devices for greywater systems. Policy Memorandum 99–001 was created as a result of their investigation.

Many people in the cross–control community from around the state participated in DHS' Policy Memorandum 99–001 investigation process, but the Policy Memo is not itself a regulation as described in 11342.600 of the Government Code. No express statutory exemption to the requirements of the APA is applicable to it.

DHS is legally tasked to protect the public water supply, and DHS published Policy Memorandum 99–001 in 1999 to supposedly clarify this Air Gap/Device issue for DHS field representatives, and for local agencies which are legally tasked to protect the water of occupants in a residence. Instead, Policy Statement 99–001 quotes, cites, and refers to several regulations, Title 17, CAC, § 7584, 7585, 7603, and 7604 that include many "shall" and other mandatory elements, then mixes in 1) false science ("'greywater' is not... free of pathogenic organisms", page 1), as greywater is usually free of pathogenic organisms but will contain various colifoms, which are only indicators of possible pathogens, not pathogens themselves; 2) incorrect terminology ("greywater produced, therefore, must be considered *hazardous* if ingested", page 2), but "hazardous" is a specific term used by environmental health officials to describe a particular proven risk that greywater does not possess; 3) illogical conclusions ("Table 1 specifies an AG (air gap) at the user connection, but will allow the installation of a RP"), as if an air gap would ever be practical or allowable in the front yard of a home right next to a water meter by the street curb; 4) misinformation ("the public water system must provide the homeowner or property manager with information regarding the appropriate uses of greywater, and the health risks associated with establishing cross connections between the greywater system and potable water piping"), falsely citing the California Plumbing Code, Appendix G–A as the source for that information); and 5) deceptive warnings ("the California Plumbing Code... contains additional provisions designed to protect the health of people within the user's premises. These Codes address separate issues... ", page 3), which is only partially true, as Policy Memo 99–001 allegedly concerns protecting water supplies, and such is all that local agencies tasked with enforcing relevant sections of other water supply protection Codes are concerned about too. Collectively, that bad guidance routinely confuses local agencies

Policy Memorandum 99–001 says a (single) RP is allowed to protect a public water supply, and it even provides guidance for the local agency to determine how to best cite the placement of that RP device. Using that guidance, local agencies can and do easily see how only one RP can provide protection to both the public water supply and the home's occupants. But when they cobine the good guidance with the bad guidance and want clarification, Policy Memo 99–001 directs them to their regional DHS field representative for that clarification.

Once a local agency asks a regional DHS field representative for clarification, rather than accept that Policy Statement 99–001 allows one RP to protect the water supply, DHS employees then verbally misinterprets Policy Statement 99–001 and the Code to mean two RPs are required, thereby accomplishing what they couldn't during the public hearing process pursuant to AB313 and during DHS' own internal investigation that created Policy Memorandum 99–001, thereby implementing a textbook example of an Underground Regulation, serving no governmental interest, and severely and unlawfully restricting the Legislature's intent for the Code with their surreptitious process.

My August 11, 1998, letter accurately states that DWR is the only state agency that is authorized to restrict the greywater law, per Water Code 14877.1(b), and DWR had not, was not, and is not making the change that those renegade DHS employees want. In 1995–1997, DWR, with DHS approval, deliberately overruled that minority opinion during public debate on the AB313 mandated changes. These few DHS staffers lost in the legally prescribed public debate so they have deliberately resorted to underground regulation.

As shown in hand written notes by Roland Rossmiller, (Exhibit 6) obtained under the Public Records Act from the Padre Dam Municipal Water District, on 11/10/99 at a meeting at Padre Dam's headquarters, DHS field representative Katherine Coates Hedburg opposed the use of only one RP on greywater irrigation

systems at a proposed new subdivision of homes in Santee, California. She then convinced the Padre Dam Municipal Water District to mandate the use of two RP's on greywater systems using her official position at DHS and her interpretation of DHS Policy Statement 99–001. My disagreement with her interpretation right then did nothing to change her edict or the water district's requirement to suit her. My complaining to DHS later about her misinterpretation did nothing to reverse her edict or the water district's requirement. Those homes still must pay an annual inspection fee for two RPs, and those homes have low water pressure due to two RPs. Those homes' unnecessary RP cost was recently cited by the Padre Dam Municipal Water District as a reason why greywater irrigation is not very cost effective in their jurisdiction.

In 2001, after prevailing in a long and expensive political fight against the City of San Diego's municipal employees union, who wanted (and want) to build their $1.85 Billion, never–been–done–before sewage–to–drinking water program to help the city satisfy its massive federal water reuse mandate, my company received a contract with the City to install the first 20 greywater irrigation systems in a 1,000–home pilot program. To avoid that same dual–RP requirement via misinterpretation scenario that affected Padre Dam's pilot project, prior to construction of a subdivision of homes in that City, I arranged to have every representative from each involved local agency meet on–site to agree on what DHS Policy Statement 99–001 required to protect the public water supply and what they required to protect the occupants in the homes that would receive greywater irrigation systems there.

As discussed in several attached letters discussed in more detail later, at that meeting, the San Diego County Department of Environmental Health's (DEH) cross–connection specialist, Richard Carlson, and DEH's greywater inspection supervisor, Frank Gabrian, and the City of San Diego's cross–connection specialist, Brian Brigham, and the City's inspection supervisor, and the City's Deputy Director of the Water Department, Mike Bresnahan, and I all each had a copy of DHS Policy Statement 99–001. (For these purposes, a "cross–connection specialist" is a person who specializes in the use of devices and methods to protect water supplies.)

We then all determined that the best location to place the RP on each greywater system in that subdivision was away from the street curb, not right in the middle of the front yard at the curb, but close to the house where it would be out of the way of foot traffic, kids, and cars and car doors. The water mains from the meter to the house were covered with the requisite slurry of concrete to the displaced location, and a single RP was placed next to each house exactly as we had all agreed. This allowed one RP to protect the public water supply and that same RP to protect the water supply inside the house. Those homes and their greywater systems were then installed with one RP.

In 2003, DHS employee Brian Bernardos, while supposedly conducting an audit (Exhibit 7) of the City of San Diego's water supply, retroactively issued a Notice of Violation to the City for allowing the use of only one RP on greywater irrigation systems at that subdivision where everyone had used DHS Policy Statement 99–001 to determine the best way to protect the public water supply and those homes.

As indicated by my letter dated October 27, 2003, to his ultimate supervisor, Dr. David Spath, Ph.D., Chief, Drinking Water and Environmental Health Management Branch, DHS, (Exhibit 8), who had represented DHS during the AB3518 and AB313 processes, I complained that Mr. Bernardos wrongfully issued a Notice of Violation to the City of San Diego requiring the city to inform the homeowners with greywater systems using only one RP that the system would either need another RP, placed right in the middle of their front yards, where children and passersby could get seriously injured, or the entire $4,000 greywater irrigation system would have to be removed.

By letter dated October 27, 2003, (Exhibit 9) I sent a copy of my letter to Dr. Spath to Mike Bresnahan, Deputy Director, Water Department, City of San Diego, who had supervised the City's role in that pre–construction meeting where everyone used Policy Memorandum 99–001 to determine where to place the RPs.

In late 2003, the City began paying to have those greywater irrigation systems removed supposedly because homeowners didn't want that second RP right in the middle of their front yards. My company had not even been paid for four ($16,000) of those greywater systems and never will be, as the City, i.e., the local agency responsible for protecting the public water supply, claims it had no control over what DHS required that caused the public reaction that caused my systems to be removed and thus to become ineligible for the City's payment pursuant to their contract with me for the purchase and installation of those greywater systems.

As indicated in my November 5, 2003, letter to Dr. Spath (Exhibit 10), I sent him a copy of Brian Bernardos' Notice of Violation issued to the City of San Diego. I explained to Dr. Spath why and how that notice of violation was legally inappropriate, and demanded a retraction of that notice before the December deadline for implementation of penalties. No response came from DHS.

As indicated in my November 25, 2003, letter to the City of San Diego (Exhibit 11), I sent the City a copy of my letter to Dr. Spath at DHS.

As indicated in my December 5, 2005, letter to Dr. Spath (Exhibit 12), hoping a picture was worth a thousand words, I gave DHS the specific details of the RP placement issue I was talking about, in a drawing of the actual scenario that had been deemed a violation of Policy Memo 99–001 by Brian Bernardos. I asked DHS to formally approve the drawing and scenario in writing, as such approval could put an end to the misinformation coming of of DHS. Several phone calls were not returned, and DHS gave no written response.

In a letter dated January 13, 2006, Rufus B. Howell, Acting Chief, Drinking Water and Environmental Health Management Branch, DHS, (Exhibit 13), responded for Dr. Spath, who'd retired. Mr. Howell's response was that DHS had no control over what local agencies did or said regarding Policy Memo 99–001, which completely missed my point in complaining about DHS employees misinforming local agencies about that Policy Memo.

As indicated in my January 20, 2006, letter to Mr. Howell (Exhibit 14), I pointed out how he had missed my point. I asked him to clarify Policy Memo 99–001 in writing so that future misinformation would not be verbally issued from DHS field employees.

As indicated in my February 21, 2006, letter to Dr. Kevin Riley, Deputy Director, DHS, (Exhibit 15), I complained that Mr. Howell was not understanding that Policy Memo 99–001 did "NOT" require two RPs "no matter what he and his staff claim". I complained about how those misinterpretations and DHS' refusal to correct those misinterpretations was costing the public and my industry a fortune. After talking with Mr. Howell's subordinate at length, and I believe she understood the problem and the solution I'd provided, she would no longer return my calls.

As indicated in a March 23, 2006, letter to me from Dr. Reilly at DHS, (Exhibit 16), I explain that he misinterpreted my complaint as a complaint "that Policy Memo 99–001 could be interpreted by water systems in such a way as to prevent your product from being successfully marketed within water system service areas". (For these purposes, a "water system" is a local agency that supplies water.) He then stated that "DHS does not dictate the specific components or methods of a water system backflow prevention program", which I personally knew to be absolutely false.

As indicated in my April 3, 2006, letter to Dr. Reilly, (Exhibit 17), I clarified for him that "I am not complaining about how various water agencies implement Policy Memo 99–001", rather, "I am complaining about DHS employees telling water agencies that two RPs are required by Policy Memo 99–001". I then added that his letter raised the issue of DHS unlawfully restricting the state greywater Code, Water Code § 14875 et seq, which "specifically only allows restrictions to itself, at § 14877.3, if there is some legally compelling reason, and then only after a public hearing, and then after an ordinance is passed by a *City Council or County Board of Supervisors*. It does not give disgruntled DHS employees this authority either directly or indirectly". Water Code § 14875 et seq still does not give authority to disgruntled DHS employees to restrict the Code.

In a letter to me dated June 26, 2006, (Exhibit 18), in a long rationalization that allows DHS employees to falsely inform local agencies that two RPs is DHS policy, Dr. Reilly unbelievably missed my point again.

As indicated in my June 30, 2006, letter to Dr. Reilly, (Exhibit 19), I attempted to correct his misunderstandings and conclusions. I even gave him a legally correct analogy of how an agency posting a lower speed limit on the freeway just because they thought it would be better would be unlawful. See *Ex parte Daniels* (1920) 183 Cal. 636, 641–648 [192 P. 442, 21 A.L.R. 1172] [finding "contradiction" where local legislation purported to fix a lower maximum speed limit for motor vehicles than that which general law fixed].)" *Sherwin–Williams Company et al., v. City Of Los Angeles,* 4 Cal. 4th 893; 844 P.2d 534; 16 Cal. Rptr. 2d 215; 1993 Cal. Lexis 415; 93 Cal. Daily Op. Service 917 and he still didn't understand my point that DHS employees were and are perpetuating local misinterpretation by giving out false information disguised as an official regulation and all of that is resulting in an unlawful restriction on the Code.

Via my letter dated July 12, 2006, (Exhibit 20), I then provided Dr. Reilly the cover sheet that Dr. Spath sent me with the original Policy Memo 99–001, which stated the reason for the delay in finishing that Policy Memo was "to insure the policy was sufficiently clear". That policy memo was perfectly clear to everyone who worked on it, including the minority at DHS who opposed it's final recommendation. Those minority DHS employees have simply enforced their unlawful interpretation of it on the public ever since then.

As indicated in my September 11, 2006, letter to Dr. Reilly, (Exhibit 21), I then provided DHS with a copy of the Final Report of a "Greywater Pilot Project" (Exhibit 22), conducted by the Padre Dam Municipal Water District, where, at page 6 "Findings/Future Considerations", their report states "DHS required two backflow prevention devices on each greywater system". That report also stated that "significant factors that may influence the performance of the grey water system include: Local DHS and jurisdictional agencies acceptance" .

I am not imagining or surmising that DHS is telling local agencies that two RPs are required and that DHS's underground regulation has a negative impact. DHS is in fact telling local agencies that two RPs are required, which is a violation of Health and Safety Code § 18938.5 because two RPs are not required by Title 17

regulations, by the Code, by Policy Memorandum 99–001, or by any other legally enforceable standard. Further, DHS' enforcement of its Underground Regulation has in fact unlawfully restricted the state greywater irrigation Code, Water Code § 14875 et seq., and it's seriously damaging the greywater industry.

As indicated in my March 8, 2007, letter to Dr. Reilly, (Exhibit 23), I sent him a copy of the Public Records Act Request I mailed to his employee, Mr. Bernardos, asking to find out who scared the public with their demands for two RPs. At that time, there was concern that the unionized city of San Diego employees who want to build their extremely expensive and risky Toilet–to–Tap program to help the city satisfy its massive federal water reuse mandate and are trying to make greywater irrigation systems appear not cost effective had simply lied about DHS' role in the dual–RP requirement.

In a March 19, 2007, letter to me, (Exhibit 24), Mr. Bernardos acknowledged my Public Records Act request, and he sent a copy to Bob Geisick at the San Diego County Department of Environmental Health, which is a local agency that has been inspecting greywater irrigation systems throughout all San Diego County.

In an April 26, 2007, Public Records Act response to me, (Exhibit 25), Mr. Bernardos disclosed the Notice of Violation he issued the City and argued that he did not require two RPs, but rather, that he only required one RP to be placed next to the water meter, resulting in two RPs being needed to provide all the required protection. What he clearly fails to appreciate is that by overruling every one of the local agencies that had made their own independent decision using Policy Memo 99–001 about where to place one RP, he was violating every published regulation that DHS is relying on for public water supply protection enforcement and that DHS cites and references in Policy Memorandum 99–001.

Mr. Bernardos' admitted actions directly and totally contradict DHS' years of repeated denials that DHS tells local agencies what to do about RPs and public water supplies vis–a vis greywater systems. His unlawful edict was the only reason two RPs were required. Further, Mr. Bernardos sent a copy of his letter to Bob Geisick at the San Diego County Department of Environmental Health, further promoting DHS' underground regulation.

Whether DHS employee Brian Bernardos was initially encouraged to issue his unlawful edict by the unionized City of San Diego employees who want to build their $1.85 Billion, never–been–done–before sewage–to–drinking water program to help the city satisfy its massive federal water reuse mandate and are trying to make privately–owned greywater irrigation systems expensive is unimportant here. What is important here is that DHS' Underground Regulation cease.

SUMMARY

DHS has for years incorrectly informed local agencies that DHS Policy Statement 99–001 requires two RPs on a greywater irrigation system installed under Water Code § 14875 et seq and has for years incorrectly overruled local agencies who correctly interpret DHS Policy Statement 99–001 to mean the local agency can allow only one RP on a greywater irrigation system installed under Water Code § 14875 et seq, and such is an Underground Regulation within the meaning of Government Code § 11340.5.

I hereby certify under penalty for perjury in California that I have submitted a copy of this petition and all attachments to Sandra Shewry, Director, Department of Health Services, P.O. Box 997413, MS 0000, Sacramento, CA 95899–7413, (916) 440–7400.

Respectfully submitted,

/s/
Stephen Wm. Bilson Dated: 5/14/07

Petition to the Office of Administrative Law

Re: An Underground Regulation
From: Stephen Wm. Bilson, Petitioner
Date: May 14, 2007

EXHIBITS

1. DHS Policy Memorandum 99–001
2. Water Code § 14875 et seq.
3. Appendix G of the California Plumbing Code
4. Assembly Bill 3518
5. Petitioner's August 11, 1998 letter to Cliff Sharp at DHS
6. Notes by Roland Rossmiller, Padre Dam Municipal Water District
7. Audit of City of San Diego Water Service by Brian Bernardos at DHS
8. Petitioner's October 27, 2003 letter to Dr. David Spath at DHS
9. Petitioner's October 27, 2003 letter to Mike Bresnahan, City of San Diego
10. Petitioner's November 5, 2003, 2003 letter to Dr. Spath at DHS
11. Petitioner's November 25, 2003 letter to Mr. Bresnahan, City of San Diego
12. Petitioner's December 20, 2003 letter to Dr. Spath with drawing
13. January 13, 2006, letter from Rufus Howell, DHS, to Petitioner

14. Petitioner's January 20, 2006 letter to Mr. Howell at DHS
15. Petitioner's February 21, 2006 letter to Dr. Rily at DHS
16. March 23, 2006, letter from Dr. Reilly to Petitioner
17. Petitioner's April 3, 2006 letter to Dr. Reilly, DHS
18. June 30, 2006, letter from Dr. Reilly to Petitioner
19. Petitioner's June 30, 2006, letter to Dr. Reilly at DHS
20. Petitioner's July 12, 2006, letter to Dr. Reilly at DHS
21. Petitioner's September 11, 2006, letter to Dr. Reilly at DHS
22. Padre Dam Municipal Water District Final Report
23. Petitioner's March 8, 2007, letter to Dr. Reilly at DHS
24. March 19, 2007, letter from Brian Bernardos at DHS to Petitioner
25. April 26, 2007, letter from Brian Bernardos at DHS to Petitioner
26. March 23, 2007, letter from Mr. Bernardos at DHS to Petitioner

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD
California Motor Vehicle Service Information Rule

This action updates CCR, title 13, section 1969, which concerns the obligation of vehicle and engine manufacturers to make motor vehicle service information available, to include provisions applicable to 2007 and subsequent heavy–duty engines, and makes coordinating changes in the procedure for administrative review of decisions of the Executive Officer set forth in CCR, title 17.

Title 13, 17
California Code of Regulations
AMEND: Title 13, 1969, Title 17, 60060.2, 60060.11, 60060.15, 60060.16, 60060.17, 60060.18, 60060.22, 60060.29, 60060.32, 60060.33, 60060.34
Filed 06/15/07
Effective 07/15/07
Agency Contact: Michael L. Terris (916) 327–2032

BUREAU OF AUTOMOTIVE REPAIR
Public Information Disclosure Policy

The action replaces the current public information disclosure policy with a new one more closely aligned with the model prepared by the Department of Consumer Affairs, and includes an updating to eliminate mention of a type of enforcement action no longer used and a daily limit on requests which is no longer needed.

Title 16
California Code of Regulations
AMEND: 3303.1
Filed 06/20/07
Effective 07/20/07
Agency Contact: James Allen (916) 255–4300

CALIFORNIA APPRENTICESHIP COUNCIL
Industry Training Criteria

This action amends Title 16, California Code of Regulations, section 212.01 to revise rules for membership, voting procedures, and timelines for California Apprenticeship Council industry training committees, which formulate criteria for apprenticeship training programs for submission to the Council for adoption pursuant to Labor Code section 3073.2.

Title 8
California Code of Regulations
AMEND: 212.01
Filed 06/19/07
Effective 07/19/07
Agency Contact: Julian Standen (415) 703–5535

CALIFORNIA CULTURAL AND HISTORICAL ENDOWMENT
Conflict of Interest Code

The California Cultural and Historical Endowment is amending their conflict of interest code found at title 2, div. 8, ch. 111, section 59560, California Code of Regulations. The changes were approved for filing by the Fair Political Practices Commission on April 30, 2007.

Title 2
California Code of Regulations
AMEND: div. 8, ch. 111, sec. 59560
Filed 06/15/07
Effective 07/15/07
Agency Contact: Victor Pong 916–651–0983

CALIFORNIA INSTITUTE FOR REGENERATIVE MEDICINE
Non–Profit Intellectual Property Provisions

The action adopts the California Institute for Regenerative Medicine's regulations governing intellectual property discovered or developed by non–profit grantees.

Title 17
California Code of Regulations
ADOPT: 100300, 100301, 100302, 100303, 100304, 100305, 100306, 100308, 100309, 100310
Filed 06/14/07
Effective 07/14/07
Agency Contact: C. Scott Tocher (415) 396–9136

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
Mammalian Tissue Composting

As a general rule, composting unprocessed mammalian tissue (flesh, organs, hide, blood, bone, etc.) is prohibited except when from the residential sector or food service industry. These amendments to existing regulations: (1) allow research projects to compost mammalian tissue for the purposes of obtaining data on pathogen reduction; and (2) allow regulated composting as an emergency measure during declared state or local emergencies to handle unprocessed mammalian tissue.

Title 14
California Code of Regulations
AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867
Filed 06/18/07
Effective 06/18/07
Agency Contact: Elliot Block (916) 341–6080

CORRECTIONS STANDARDS AUTHORITY
Minimum Standards for Juvenile Facilities

This regulatory action updates and revises standards for local juvenile detention facilities. One revision throughout the regulations changes the name from "Board of Corrections" to "Corrections Standards Authority." Several other amendments are related to a new section on procedures for gathering of DNA evidence. The remaining amendments are related to certain definitions, staffing and inspection issues, non–discrimination provisions, orientation of new placements, training on the use of force and suicide prevention, searches, confidentiality, educational program, visiting, access to legal services, health care and medications, clothing and bedding, and diet.

Title 15
California Code of Regulations
ADOPT: 1363 AMEND: 1300, 1302, 1303, 1304, 1311, 1312, 1314, 1320, 1321, 1323, 1324, 1325, 1340, 1341, 1342, 1343, 1350, 1353, 1357, 1360, 1361, 1370, 1374, 1375, 1377, 1378, 1390, 1407, 1437, 1438, 1439, 1450, 1461, 1462, 1480, 1501
Filed 06/18/07
Effective 07/18/07
Agency Contact: Gary Wion (916) 324–1641

DEPARTMENT OF PESTICIDE REGULATION
Respiratory Protection

This regulatory action adopts and amends provisions of Title 3 regarding respiratory protection measures for pesticide workers. The amendments revise the employers' obligations with respect to employees who are required by pesticide label, restricted materials permit, regulation, or by the employer, to use respirators in the workplace. These revisions to the regulations are an effort to bring the Title 3 regulations in closer conformity with revisions made by Cal–OSHA and the US Dept. of Labor as to respiratory protection of employees. These amendments provide for an initial confidential "medical evaluation" procedure and require documentation and retention procedures for respiratory programs.

Title 3
California Code of Regulations
ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793
Filed 06/13/07
Effective 01/01/08
Agency Contact:
Linda Irokawa–Otani (916) 445–3991

DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Alternative Management Standards for Treated Wood Waste

This regulatory action provides alternative management standards for treated wood waste. On June 15, 2007, DTSC withdrew subsection (a)(2)(B)(3) of regulation section 67386.6 to make an additional change available to the public.

Title 22
California Code of Regulations
ADOPT: 67386.5, 67386.6, 67386.7, 67386.8, 67386.9, 67386.10, 67386.11, 67386.12 AMEND: 66261.9.5, 66261.126—Appendix XII, 67386.1, 67386.2, 67386.3, 67386.4
Filed 06/18/07
Effective 07/01/07
Agency Contact: Laura Hayashi (916) 322–6409

DIVISION OF WORKERS COMPENSATION
Medical Treatment Utilization Schedule

In this regulatory action, the Division of Workers' Compensation of the Department of Industrial Relations adopts regulations setting forth the Workers' Compensation "Medical Treatment Utilization Schedule" pursuant to Labor Code sections 5307.27 and 4604.5.

Title 8
California Code of Regulations
ADOPT: 9792.20, 9792.21, 9792.22, 9792.23
Filed 06/15/07
Effective 06/15/07
Agency Contact: Minerva Krohn (415) 703–4667

FRANCHISE TAX BOARD
Taxation of Mutual Fund Service Providers

This regulatory action adopts a shareholder location sales approach with a throwback provision using Finnegan methodology for mutual fund service providers.

Title 18
California Code of Regulations
ADOPT: 25137–14
Filed 06/20/07
Effective 07/20/07
Agency Contact: Colleen Berwick (916) 845–3306

SECRETARY OF STATE
HAVA Statewide Voter Registration Database

The Help America Vote Act of 2002 (HAVA) in 42 U.S.C. 15483 required each state with voter registration requirements for elections for federal office to implement, through the chief state elections official, a single, uniform, official, centralized interactive computerized statewide voter registration list by January 1, 2004. Pursuant to a waiver pursuant to 42 U.S.C. 15483(d)(1)(B), the statewide voter registration list requirements became effective for California on January 1, 2006. On November 17, 2005, an emergency regulatory action which adopted interim provisions implementing such a list in California beginning January 1, 2006 was submitted by the Secretary of State (SOS) to the Office of Administrative Law (OAL). This file was subsequently withdrawn and resubmitted by SOS to OAL on December 2, 2005. On December 12, 2005 it was approved by OAL and filed with SOS. Subsequent readoptions of these emergency regulations with some amendments followed. On April 10, 2007 a certificate of compliance containing changes from the latest emergency regulations filed on December 13, 2006 was submitted to OAL. This filing was withdrawn by SOS on May 22, 2007 in order to obtain the required Department of Finance (DOF) approval of the fiscal impact statement (STD Form 399). On May 22, 2007, SOS resubmitted the emergency regulations with some changes to OAL. On May 23, 2007, the emergency regulations were approved by OAL and filed with the SOS. On June 6, 2007, DOF signed the STD Form 399 for this rulemaking. This filing is the resubmittal of the certificate of compliance for the emergency regulations most recently filed on May 23, 2007.

Title 2
California Code of Regulations
ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37
Filed 06/13/07
Effective 06/13/07
Agency Contact: Judith Carlson (916) 651–6971

STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998 — Repayment Schedules

In this Certificate of Compliance rulemaking action relating to the Leroy F. Greene School Facilities Act of 1998, the State Allocation Board implements Education Code section 17076.10(c) by providing for repayment schedules of up to five years for school districts and other educational entities under the Act which have been audited and owe repayment of State funds and which are in severe financial hardship situations.

Title 2
California Code of Regulations
ADOPT: 1859.106.1
AMEND: 1859.106
Filed 06/20/07
Effective 06/20/07
Agency Contact: Robert Young (916) 445–0083

STATE MINING AND GEOLOGY BOARD
Administrative Fees

This amendment to Title 14 section 3696.5 changes the fee to be charged by the State Mining and Geology Board ("SMGB") when the SMGB acts as the "lead agency" in implementing the Surface Mining and Reclamation Act ("SMARA"). The fee is being changed from seven dollars to fourteen dollars.

Title 14
California Code of Regulations
AMEND: 3696.5
Filed 06/20/07
Effective 07/20/07
Agency Contact: Stephen Testa (916) 322–1082

STATE WATER RESOURCES CONTROL BOARD
Establish a TMDL for Control of Nutrients in Clear Lake

The California Regional Water Quality Control Board (Central Valley Region) adopted, and the State Water Resources Control Board later approved, an amendment to the Water Quality Control Plan for The Sacramento River and San Joaquin River Basins for the Control of Nutrients in Clear Lake. This rulemaking is a water quality plan amendment subject to the special and limited APA provisions of Government Code section 11353. The proposed amendments establish a TMDL to control nutrients in Clear Lake and include wasteload allocations for the stormwater dischargers. Waste discharge requirements and waivers will be used to implement phosphorous control practices. The responsible parties are required to work together to develop and implement a plan to collect necessary information and to recommend a control strategy. Compliance is required within ten years of OAL approval. Within 5 yrs, 3 mos of OAL approval, the Regional Board will consider the information gathered and determine whether the phosphorus and waste load allocations should continue to be required.

Title 23
California Code of Regulations
ADOPT: 3949.3
Filed 06/19/07
Agency Contact:
Michael Buckman (916) 341–5479

VETERINARY MEDICAL BOARD
Schedule of Fees

This regulatory action increases the fees for application, examination, initial registration, and biennial renewal of licenses for veterinarians and registered veterinary technicians.

Title 16
California Code of Regulations
AMEND: 2070, 2071
Filed 06/15/07
Effective 07/15/07
Agency Contact:
Susan M. Geranen (916) 263–2615

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN JANUARY 17, 2007 TO JUNE 20, 2007

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106
06/15/07 AMEND: div. 8, ch. 111, sec. 59560
06/13/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80 REPEAL: 20108.37
05/23/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80
05/21/07 AMEND: 18402
05/17/07 ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2, 1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1 AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167,1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1
05/17/07 AMEND: 52900
05/14/07 AMEND: 599.664
05/08/07 AMEND: div. 8, ch. 48, sec. 53700
05/08/07 ADOPT: 1185.2, 1185.3, 1185.4 AMEND: 1185, 1185.01, 1185.02, 1185.03, 1185.1
04/30/07 AMEND: 1859.124.1
04/25/07 AMEND: 1859.83, 1859.202, 1866
04/16/07 AMEND: 18401
04/04/07 AMEND: 28010 REPEAL: 36000
03/27/07 AMEND: 59560
03/20/07 ADOPT: 18746.3
03/15/07 AMEND: div. 8, ch. 102, section 59100
03/14/07 AMEND: div. 8, ch. 73, section 56200

03/01/07 AMEND: 21922
02/28/07 AMEND: 714
02/16/07 AMEND: 1859.2, 1859.76, 1859.83, 1859.163.1, 1859.167, 1859.202, 1866
02/02/07 AMEND: 2561, 2563, 2564, 2565, 2566, 2567
01/26/07 ADOPT: 599.550, 599.552, 599.553, 599.554 AMEND: 599.500
01/19/07 ADOPT: 18531.62, 18531.63, 18531.64 AMEND: 18544

Title 3

06/13/07 ADOPT: 6739 AMEND: 6000, 6720, 6738, 6793
06/07/07 AMEND: 3434(b)
06/06/07 AMEND: 3434(b)
06/05/07 AMEND: 3591.20(a)
05/31/07 ADOPT: 900, 900.1, 900.2, 901.5, 901.8, 901.9, 901.10, 901.11, 902, 902.1, 902.3, 902.4, 902.5, 902.6, 902.7, 902.8, 902.9, 902.10, 902.11, 902.12, 902.13, 902.14, 903, 903.1, 903.2, 903.3, 903.4, 903.5, 903.6, 903.7, 903.8, 903.9, 903.10, 903.11, 903.12
05/07/07 AMEND: 6860
05/07/07 AMEND: 3433
05/03/07 ADOPT: 3035 REPEAL: 3035, 3035.1, 3035.2, 3035.3, 3035.4, 3035.5, 3035.6, 3035.7, 3035.8, 3035.9
04/25/07 AMEND: 3433(b)
04/23/07 AMEND: 3591.20
04/20/07 AMEND: 3591.20(a)
04/20/07 ADOPT: 3434
04/03/07 AMEND: 3591.20(a), 3591.20(b)
04/02/07 AMEND: 752, 796.6, 1301
03/28/07 AMEND: 3591.2(a)
03/27/07 ADOPT: 1446.9, 1454.16
03/21/07 ADOPT: 3591.20
03/15/07 ADOPT: 1371, 1371.1, 1371.2
03/07/07 AMEND: 3423(b)
03/06/07 AMEND: 3700(c)
02/15/07 ADOPT: 499.5, 513, 513.5 AMEND: 498, 499, 500, 501, 502, 504, 505, 509, 510, 511, 512, 512.1, 512.2, 514, 515, 516, 517, 525, 551, 552, 553, 554, 604.1 REPEAL: 499.5, 503, 506, 508, 512.3, 527, 536, 537, 538, 539, 540, 541, 543, 544, 546, 547, 550
02/14/07 AMEND: 3700(c)
02/08/07 AMEND: 6170, 6172, 6200
02/08/07 AMEND: 3433(b)
02/07/07 AMEND: 6170, 6172, 6200
01/31/07 AMEND: 3591.12(a)
01/24/07 AMEND: 3591.13(a)
01/18/07 AMEND: 3433(b)
01/18/07 AMEND: 3433(b)
01/18/07 AMEND: 3800.1, 3800.2
01/18/07 AMEND: 3423(b)

Title 4

05/30/07 AMEND: 1481
05/08/07 AMEND: 1433
05/07/07 AMEND: 1606
04/24/07 ADOPT: 9071, 9072, 9073, 9074, 9075
04/19/07 AMEND: 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10188
03/13/07 ADOPT: 7075, 7076, 7077, 7078, 7079, 7080, 7081, 7082, 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090, 7091, 7092, 7093, 7094, 7095, 7096, 7097, 7098, 7099 REPEAL: 7000, 7001, 7002, 7003, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7014, 7015, 7016, 7017
02/08/07 ADOPT: 12341
02/08/07 ADOPT: 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12572
01/31/07 AMEND: 12590
01/30/07 AMEND: 12101, 12301.1, 12309
01/30/07 ADOPT: 12460, 12461, 12462, 12463, 12464, 12466
01/30/07 AMEND: 12358
01/26/07 AMEND: 1433
01/17/07 ADOPT: 523

Title 5

06/05/07 AMEND: 19802
06/04/07 ADOPT: 11996, 11996.1, 11996.2, 11996.3, 11996.4, 11996.5, 11996.6, 11996.7, 11996.8, 11996.9, 11996.10, 11996.11
06/01/07 REPEAL: 41916
05/30/07 ADOPT: 30920, 30921, 30922, 30923, 30924, 30925, 30926, 30927
05/18/07 ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854
05/11/07 AMEND: 30023(c)
05/07/07 ADOPT: 30910, 30911, 30912, 30913, 30914, 30915, 30916, 30917
04/27/07 ADOPT: Art. 2.2 (subch.1,ch. 6), 55151, 55151.5, 55151.7, 58707, 58785, AMEND: 55002, 55150, 58160, 58704, 58770, 58771, 58773, 58774, 58776, 58777, 58779 REPEAL: 58706, 58775
04/23/07 ADOPT: 30710, 30711, 30712, 30713, 30714, 30715, 30716, 30717, 30718

04/17/07 AMEND: 18013, 18054, 18068
04/09/07 ADOPT: 11962, 11962.1
04/06/07 AMEND: 41301
03/29/07 AMEND: 42356
03/19/07 AMEND: 41550
03/19/07 AMEND: 41301
03/01/07 AMEND: 19816, 19851, 19852, 19853
02/28/07 AMEND: 80028, 80487
02/16/07 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7
02/08/07 ADOPT: 1000, 1000.1, 1000.2, 1000.3, 1000.4, 1000.5, 1000.6, 1000.7
01/17/07 ADOPT: 55151, 55151.5 AMEND: 55002, 55150, 58160
01/17/07 ADOPT: 58707 AMEND: 58704, 58770, 58771, 58773, 58774, 58776, 58777, 58779 REPEAL: 58706, 58775

Title 8

06/19/07 AMEND: 212.01
06/15/07 ADOPT: 9792.20, 9792.21, 9792.22, 9792.23
06/07/07 ADOPT: 9792.11, 9792.12, 9792.13, 9792.14, 9792.15
06/01/07 AMEND: 4543
05/23/07 AMEND: 5001
05/23/07 AMEND: 9767.4, 9767.8, 9768.10, 9788.11
05/21/07 AMEND: 9768.5, 9788.31
05/16/07 AMEND: 8397.16
04/27/07 AMEND: 1801, 8416
04/26/07 ADOPT: 10225, 10225.1, 10225.2
04/24/07 AMEND: 5004, 5047, 8379
04/20/07 AMEND: 1620, 1626, 1629
04/20/07 AMEND: 5148(c)
04/18/07 AMEND: 20299, 20363, 20407
03/29/07 AMEND: 3664(a)
03/27/07 AMEND: 3291, 3292, 3295, 3296
03/06/07 AMEND: 1529, 1532, 1532.1, 1535, 5144, 5190, 5198, 5200, 5202, 5207, 5208, 5210, 5211, 5213, 5214, 5217, 5218, 5220, 8358
03/02/07 ADOPT: 1731 AMEND: 1730
03/01/07 AMEND: 1541
02/28/07 AMEND: 9789.40
02/21/07 AMEND: 9780, 9783
02/15/07 AMEND: 9789.11

Title 9

06/12/07 AMEND: 10501, 10508, 10511, 10515, 10518, 10522, 10524, 10527, 10529, 10532, 10533, 10545, 10547, 10550, 10561, 10568, 1606, 10608, 10609, 10613, 10615, 10620, 10626, 10630
05/24/07 AMEND: 13035
05/01/07 ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.230, 3200.240, 3200.250, 3200.260, 3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415

Title 10

05/01/07 AMEND: 2716.1, 2790.1.5, 2810.5 REPEAL: 2716, 2790.1, 2810
04/26/07 ADOPT: 5357, 5357.1, 5358, 5358.1 AMEND: 5350, 5352
04/25/07 AMEND: 2697.6, 2697.61
04/25/07 AMEND: 250.30
04/24/07 AMEND: 2498.6
04/16/07 AMEND: 2318.6, 2353.1, 2354
03/23/07 AMEND: 2695.8(b)(2)
03/09/07 AMEND: 2498.6
03/06/07 AMEND: 260.230, 260.231, 260.236.1, 260.241.4, 260.242 REPEAL: 260.231.2, 260.236.2
01/23/07 ADOPT: 2183, 2183.1, 2183.2, 2183.3, 2183.4 REPEAL: 2691.18, 2691.19

Title 11

06/08/07 ADOPT: 9020 REPEAL: 1019
06/08/07 AMEND: 9072
06/06/07 AMEND: 1010 (renumber to 9030 to new Chapter 3)
06/04/07 AMEND: 1081
06/01/07 AMEND: 1005, 1007, 1008
06/01/07 ADOPT: 999.6, 999.7, 999.8
04/19/07 ADOPT: 64.4
04/19/07 ADOPT: 64.6

04/19/07 ADOPT: 64.5
04/18/07 ADOPT: 64.3
03/06/07 AMEND: 1070, 1082
02/02/07 ADOPT: 9070, 9071, 9072, 9073, 9076, 9077, 9078 AMEND: 1005, 1018, 1055 REPEAL: 1011
02/02/07 ADOPT: 999.40
01/30/07 AMEND: 20
01/25/07 AMEND: 30.5
01/25/07 AMEND: 30.1
01/19/07 AMEND: 1005, 1007, 1080

Title 13

05/23/07 AMEND: 2180.1, 2181, 2184, 2185, 2186, 2192, 2194 REPEAL: 2011
05/01/07 ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421, 1422, 1423, 1424, 1425, and Article 15 text
04/26/07 AMEND: 2451, 2452, 2453, 2455, 2456, 2458, 2459, 2460, 2461, 2462
04/26/07 AMEND: 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465
04/12/07 ADOPT: 2775, 2775.1, 2775.2, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789 AMEND: 2430, 2431, 2433, 2434, 2438
03/26/07 ADOPT: 182.00, 182.01, 182. 02, Form REG 195 (REV. 2/2007) AMEND: Form REG 256 (REV. 9/2005)
02/09/07 AMEND: 2702, 2703, 2704, 2706, 2707, 2709
01/18/07 AMEND: 1961, 1976,1978

Title 13, 17

06/15/07 AMEND: Title 13, 1969, Title 17, 60060.2, 60060.11, 60060.15, 60060.16, 60060.17, 60060.18, 60060.22, 60060.29, 60060.32, 60060.33, 60060.34

Title 14

06/20/07 AMEND: 3696.5
06/18/07 AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867
06/11/07 ADOPT: 721
06/08/07 ADOPT: 2880
05/29/07 AMEND: 360, 361, 362, 363, 364, 702, 708
05/10/07 AMEND: 5.51, 7.50(b) (53.8)
05/10/07 AMEND: 27.80
05/07/07 ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72 REPEAL: 4970.00, 4970.01, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21, 4970.22, 4970.23, 4970.24, 4970.25, 4970.26, 4970.27, 4970.28, 4970.29, 4970.30, 4970.31, 4970.32
05/03/07 ADOPT: 125.1 AMEND: 125
04/30/07 AMEND: 1257
04/13/07 ADOPT: 18751.2.1, Form CIWMB 303a, Form CIWMB 303b AMEND: 18751.2 REPEAL: Form CIWMB 303
04/02/07 AMEND: 679
03/27/07 AMEND: 11945
03/27/07 AMEND: 11900
03/26/07 AMEND: 2305, 2310, 2320
03/21/07 AMEND: 7.50
03/20/07 AMEND: 790, 815.01, 815.02, 815.03, 815.04, 815.05, 815.06, 815.07, 815.08, 815.09, 816.01, 816.02, 816.03, 816.04, 816.05, 816.06, 817.02, 817.03, 818.01, 818.02, 818.03, 819.01, 819.02, 819.03, 819.04, 819.06, 819.07, 820.01, 825.03, 825.05, 825.07, 826.01, 826.02, 826.03, 826.04, 826.05, 826.06, 827.01, 827.02
03/20/07 AMEND: 11945
03/01/07 AMEND: 10121, 11900(a)(5)
02/28/07 ADOPT: 5.81, 27.91 AMEND: 1.62, 1.63, 1.67, 2.00, 5.00, 5.80, 7.00, 7.50, 8.00, 27.60, 27.65, 27.90, 27.95, 28.20, 29.70, 29.80, 29.85, 195, 701
02/23/07 AMEND: 671.5
02/16/07 AMEND: 10214, 10381, 10500, 10620, 11002, 11003, 11005
02/13/07 AMEND: 53.03, 149, 149.1
02/08/07 AMEND: 880
02/05/07 ADOPT: 2990, 2995, 2997 AMEND: 2125, 2518
01/18/07 ADOPT: 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 28.48, 28.49, 28.51, 28.52, 28.53, 28.57 AMEND: 1.91,

27.60, 27.65, 27.83 (amend and renumber to 27.51), 28.26, 28.27, 28.28, 28.29, 28.54, 28.55, 28.56, 28.58, 28.90, 701 REPEAL: 27.67, 27.82

Title 14, 27

03/14/07 ADOPT: Title 27, 21660.1, 21660.2, 21660.3, 21660.4, 21666 AMEND: Title 14, 17388.3, 17388.4, 17388.5, 18077, 18083, 18104.1, 18104.2, 18104.7, 18105.1, 18105.2, 18105.9, Title 27, 21563, 21570, 21580, 21620, 21650, 21660, 21663, 21665, 21675, 21685 REPEAL: Title 14, 17383.10, 17388.6

Title 15

06/18/07 ADOPT: 1363 AMEND: 1300, 1302, 1303, 1304, 1311, 1312, 1314, 1320, 1321, 1323, 1324, 1325, 1340, 1341, 1342, 1343, 1350, 1353, 1357, 1360, 1361, 1370, 1374, 1375, 1377, 1378, 1390, 1407, 1437, 1438, 1439, 1450, 1461, 1462, 1480, 1501
06/05/07 ADOPT: 3999.5
05/15/07 ADOPT: 3999.4
05/02/07 AMEND: 3276(e)
04/19/07 AMEND: 3084.1, 3391
04/18/07 AMEND: 2600.1
04/18/07 ADOPT: 3352.2 AMEND: 3350.1, 3352.1, 3354, 3355.1, 3358
02/23/07 AMEND: 3000, 3315, 3323, 3341.5
02/05/07 ADOPT: 3999.3
01/18/07 ADOPT: 4034.0, 4034.1, 4034.2, 4034.3, 4034.4 REPEAL: 4036.0, 4040.0

Title 16

06/20/07 AMEND: 3303.1
06/15/07 AMEND: 2070, 2071
06/12/07 AMEND: 1325, 1339, 1344, 1350.3, 1355.35
05/30/07 ADOPT: 980.2, 980.3 AMEND: 980.1
05/23/07 AMEND: 1706.2
05/04/07 ADOPT: 2516.5, 2518.7, 2576.7 AMEND: 2502, 2516, 2526, 2526.1, 2530, 2533, 2540.3, 2540.4, 2542.2, 2542.3, 2542.4, 2542.5, 2544, 2544.1, 2544.2, 2544.3, 2544.4, 2547.2, 2547.3, 2547.4, 2547.5 2562, 2575, 2581, 2581.1, 2585, 2587, 2592.3, 2592.4, 2593, 2593, 2593.1, 2593.2, 2593.3, 2593.4
04/27/07 AMEND: 1387, 1390.3
04/20/07 AMEND: 2032.4, 2034, 2036, 2036.5
04/09/07 AMEND: 640, 643
04/09/07 AMEND: 1388.6, 1381.5
04/09/07 REPEAL: 356.1
04/03/07 AMEND: 4202
04/03/07 AMEND: 1399.101
03/26/07 ADOPT: 1784
03/26/07 AMEND: 919
03/23/07 AMEND: 1399.151.1, 1399.160.2, 1399.160.3, 1399.160.4, 1399.160.5, 1399.160.6, 1399.160.7, 1399.160.9, 1399.160.10
03/20/07 AMEND: 1803
03/19/07 REPEAL: 942, 943, 944, 945, 946, 947, 948, 949, 950.6, 950.7, 966
02/28/07 ADOPT: 1396.5
02/23/07 REPEAL: 1712.2
02/15/07 ADOPT: 1034.1 AMEND: 1021, 1028, 1034
02/14/07 ADOPT: 1399.360 AMEND: 1399.302
02/08/07 AMEND: 1397.12
02/02/07 AMEND: 3356
02/01/07 AMEND: 70
01/31/07 AMEND: 884
01/23/07 AMEND: 3305, 3306, 3307, 3308, 3309, 3310, 3315, 3316, 3320, 3321

Title 17

06/14/07 ADOPT: 100300, 100301, 100302, 100303, 100304, 100305, 100306, 100308, 100309, 100310
05/04/07 ADOPT: 96100
04/26/07 ADOPT: 93116.3.1 AMEND: 93115, 93116.2, 93116.3
04/18/07 ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77
03/01/07 AMEND: 30346.3, 30350.3
02/28/07 ADOPT: 100500
02/16/07 AMEND: 6540

Title 18

06/20/07 ADOPT: 25137–14
06/05/07 AMEND: 1668
06/04/07 ADOPT: 1671.1
05/17/07 AMEND: 1802
05/15/07 AMEND: 1703
04/25/07 AMEND: 1620
04/10/07 AMEND: 1655
04/10/07 AMEND: 1566
03/30/07 AMEND: 1571
03/22/07 ADOPT: 4500, 4501, 4502, 4503, 4504, 4505, 4506, 4507, 4508, 4509, 4600, 4601, 4602, 4603, 4604, 4605, 4606, 4607, 4608, 4609, 4700, 4701, 4702, 4703
03/08/07 AMEND: 1602
01/23/07 AMEND: 25110

Title 19

03/28/07 AMEND: 906.2

02/28/07 ADOPT: 574.4, 574.5, 574.6 AMEND: 557.1, 561.2, 565.2, 566, 568, 573, 574.1, 574.2, 574.3, 574.4, 574.5, 574.6, 575.1, 575.3, Table 4, 575.4, 578.1, 591.5, 594.3, 595.1, 596.1. 596.2 REPEAL: 574.4, 574.5, 574.6, 609.3, 609.4, 609.5, 609.6, 609.7, 610, 612, 613, 614.2, 614.4

Title 20

06/11/07 AMEND: 4.1

03/28/07 AMEND: 1002, 1201, 1207, 1208, 1209, 1209.5, 1216, 1217, 1702, 1708, 1709.7, 1710, 1716, 1717, 1720, 1720.3, 1720.4, 1721, 1744, 1747, 2012–App B REPEAL: 1219, 1720.5, 1720.6

02/22/07 AMEND: 17.1, 17.4

Title 21

03/05/07 ADOPT: 1520.12

Title 22

06/18/07 ADOPT: 67386.5, 67386.6, 67386.7, 67386.8, 67386.9, 67386.10, 67386.11, 67386.12 AMEND: 66261.9.5, Appendix XII, 67386.1, 67386.2, 67386.3, 67386.4

04/23/07 ADOPT: 66261.9.5, 67386.1, 67386.2, 67386.3, 67386.4

04/20/07 ADOPT: 2708(d)–1(a), 2708(d)–1(b), 2708(d)–1(c)

04/19/07 AMEND: 5065, 5101, 5108

04/17/07 ADOPT: 40622, 40635.1, 40635.2, 40648, 40660, 40661, 40733, 40752 AMEND: 40603, 40635, 40743, 40747 REPEAL: 40753

04/13/07 ADOPT: 66267.10 AMEND: 66264.1, 66265.1, 66270.1

03/20/07 ADOPT: 69106 AMEND: 69100, 69101, 69102, 69103, 69104, 69106 (renumber to 69107), 69107 (renumber to 69108)

03/20/07 AMEND: 926–3, 926–4, 926–5

03/12/07 AMEND: 4400(ee) REPEAL: 4407, 4425, 4441.5

02/28/07 AMEND: 92001, 92002, 92003, 92004, 92005, 92006, 92007, 92008, 92009, 92010, 92011, 92012, 92101, 92201, 92202, 92301, 92302, 92303, 92304, 92305, 92306, 92307, 92308, 92309, 92310, 92311, 92312, 92313, 92401, 92501, 92601, 92602, 92603, 92604, 92701, 92702

02/23/07 AMEND: 100540

02/22/07 AMEND: 100066, 100079

02/22/07 ADOPT: 51003.1 AMEND: 51003, 51003.3

01/30/07 AMEND: 2601.1

01/30/07 AMEND: 12705

01/29/07 AMEND: 12000

01/22/07 AMEND: 143–1

01/17/07 ADOPT: 86072.1 AMEND: 83064, 83072, 84072, 84079, 84172, 84272, 86072, 89372, 89379

Title 22, MPP

02/23/07 ADOPT: 86500, 86501, 86505, 86505.1, 86506, 86507, 86508, 86509, 86510, 86511, 86512, 86517, 86518, 86519, 86519.1, 86519.2, 86520, 86521, 86522, 86523, 86524, 86526, 86527, 86528, 86529, 86529, 86531, 86531.1, 86531.2, 86534, 86535, 86536, 86540, 86542, 86544, 86545, 86546, 86552, 86553, 86554, 86555, 86555.1, 86558, 86559, 86561, 86562, 86563, 86564, 86565, 86565.2, 86565.5, 86566, 86568.1, 86568.2, 86568.4, 86570, 86572, 86572.1, 86572.2, 86574, 86575, 86576, 86577, 86578, 86578.1, 86579, 86580, 86586, 86587, 86587.1, 86587.2, 86588, MPP 11–400c, 11–402, 45–101(c), 45–202.5, 45–203.4, 45–301.1

Title 23

06/19/07 ADOPT: 3949.3

05/21/07 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2, 499.6.3 AMEND: 499.1, 499.2, 499.3, 499.4, 499.4.1, 499.5, 499.6, 499.6.1, 499.7, 499.8 REPEAL: 499.6.2

05/18/07 ADOPT: 3958

05/18/07 ADOPT: 3959

05/01/07 AMEND: 645

04/25/07 AMEND: 3983

04/06/07 AMEND: 737, 768, 769, 770, 771, 852

03/23/07 ADOPT: 3989.6

03/20/07 AMEND: 2913

02/20/07 AMEND: 3671, 3711, 3712, 3713, 3719.18

02/20/07 ADOPT: 3939.24

02/06/07 ADOPT: 3939.23

01/29/07 AMEND: 3833.1

01/18/07 ADOPT: 3917

Title 25

05/23/07 AMEND: 6932

04/05/07 ADOPT: 7065.5

Title 27

04/13/07 ADOPT: 15186, 15187, and 15188 AMEND: 15100, 15110, 15120, 15130,

15150, 15160, 15170, 15180, 15185, 15187.1 (renumber to 15189), 15190, 15200, 15210, 15220 (amendment and renumbering of 15210(b) to 15220(a)), 15240, 15241, 15250, 15260, 15270, 15280, 15290

Title 28

01/24/07 ADOPT: 1330.67.04 REPEAL: 1300.67.8(f)

Title MPP

02/05/07 AMEND: 30–757, 30–761

01/24/07 ADOPT: 22–901 AMEND: 22–001, 22–002, 22–003, 22–004, 22–009, 22–045, 22–049, 22–050, 22–053, 22–054, 22–059, 22–061, 22–063, 22–064, 22–065, 22–069, 22–071, 22–072, 22–073, 22–077, 22–078, 22–085 REPEAL: 22–074, 22–075, 22–076